# TABLE OF CONTENTS

**PERSONNEL INVESTIGATION FORM**

**INVESTIGATIVE NARRATIVE**

**CHRONOLOGICAL LIST OF ALL TRANSCRIPTS RELATED TO THIS CASE:**

**EXHIBITS A THROUGH Q**

**MISCELLANEOUS DOCUMENTS**

**INTERNAL AFFAIRS BUREAU**
**INVESTIGATIVE NARRATIVE**
**IAB #IV 2219241**

**Subject:** **ORTEGA, Cesar, Deputy Sheriff, #[redacted]**
**Inmate Reception Center**
**Correctional Services Division**

**Date:** **Between April 23, 2008 (Wednesday) at 1400 hours and June 6, 2008 (Friday) at 1200 hours**

**Locations:** **Inmate Reception Center**
**450 Bauchet Street**
**Los Angeles, California 90012**

[redacted]

**Riverside Police Department - Magnolia Station**
**10540 Magnolia Avenue**
**Riverside, California 92505**

[redacted]

**Investigator: Lieutenant William Hines**

**Case Synopsis:**

This case pertains to allegations that Deputy Cesar Ortega violated Policy Sections *3-01/000.10 A Professional Conduct;* and/or *3-01/030.05 General Behavior;* and/or *3-01/030.07 Immoral Conduct;* and/or *3-01/030.10 Obedience to Laws, Regulations and Orders;* and/or *3-01/030.15 Conduct Toward Others;* and/or *3-01/040.95 Confidential Information;* and/or *3-01/050.85 Fraternization;* and/or *3-01/050.90 Prohibited Association,* **and/or** *3-01/100.45 Use of Communications Equipment* and/or *3-01/040.70 False Statements;* and/or *3-01/040.76 Obstructing an Investigation/Influencing a Witness;* and/or *3-01/040.85 Cooperation During Criminal Investigation.*

The allegations first arose while he was on-duty, working at the Inmate Reception Center, assigned to the Visiting Lobby, when he received a telephone call from [redacted] who was inquiring about her [redacted] early release date. During the conversation, Subject Ortega became flirtatious with Ms. [redacted] He then offered to drive to Ms. [redacted] home in [redacted] after he got off of work in order to deliver paperwork related to her [redacted] Los Angeles County Jail Inmate [redacted] He told Ms. [redacted] that the information was related to [redacted] "early release date."

Subject Ortega obtained and/or confirmed Ms. [redacted] address from the Emergency Contact section listed for Inmate [redacted] At the completion of his shift, and while off-duty, Subject Ortega drove his personal vehicle approximately 54 miles to Ms. [redacted] home in [redacted] County. He arrived at her door in full uniform, wearing a Sam Browne belt, with a holster and his duty weapon. Once inside Ms. [redacted] home, Subject Ortega provided her with documents and paperwork that he obtained from his work computer and printer. A short time later, Subject Ortega had sexual intercourse with Ms. [redacted] Ms. [redacted] said that she only submitted to Subject Ortega's sexual advances through fear that Subject Ortega would harm her and/or [redacted] Ms. [redacted] reported the incident to the Riverside Police Department the following day and a criminal investigation began on April 24, 2008.

During the course of the Riverside Police Department's criminal investigation, Subject Ortega made false statements to the investigators, when he denied having sex with Ms. [redacted] and telling them that the only contact that he had with Ms. [redacted] was when she came into the Visiting Lobby at the Inmate Reception Center. He also told Riverside Police Department investigators that during his contact in the Visiting Lobby with Ms. [redacted] she asked him out on a date and when he refused, she became angry. Only after Subject Ortega was informed that he was recorded on a video camera at Ms. [redacted] home did Subject Ortega admit to the investigators that he was at her home. Subject Ortega then told the investigators that the sex was consensual and that he did not rape Ms. [redacted] Additionally, during the course of the criminal investigation, Subject Ortega telephoned Ms. [redacted] and attempted to convince her to "drop the charges" on him.

On April 25, 2008, Chief Alexander R. Yim requested that the Internal Affairs Bureau conduct a criminal monitor and subsequently, an administrative investigation into these allegations.

This Administrative Investigation is based on Riverside Police Department's criminal investigation (concluded on July 11, 2008, with a Riverside County District Attorney's reject), which includes several interviews conducted with the victim, [redacted] interviews conducted with several witnesses; an interview of Ms. [redacted] conducted by investigators from the Internal Criminal Investigations Bureau; the criminal investigation interview of Subject Cesar Ortega, the transcripts of several audio recorded telephone conversations related to this case and the Internal Affairs Bureau's interviews of Subject Cesar Ortega, Ms. [redacted] and witnesses. **Refer to Exhibits B thru J, Riverside Police Department's reports related to this incident and refer to all of the transcribed interviews and telephone calls provided by Riverside Police Department for complete statements. (The videotape recorded interview of Ms. [redacted] and the videotape recorded interview of Subject Ortega was not incorporated into the Internal Affairs Bureau case book, but was received and retained by the Bureau if needed for future reference.)**

**Case Investigation:**

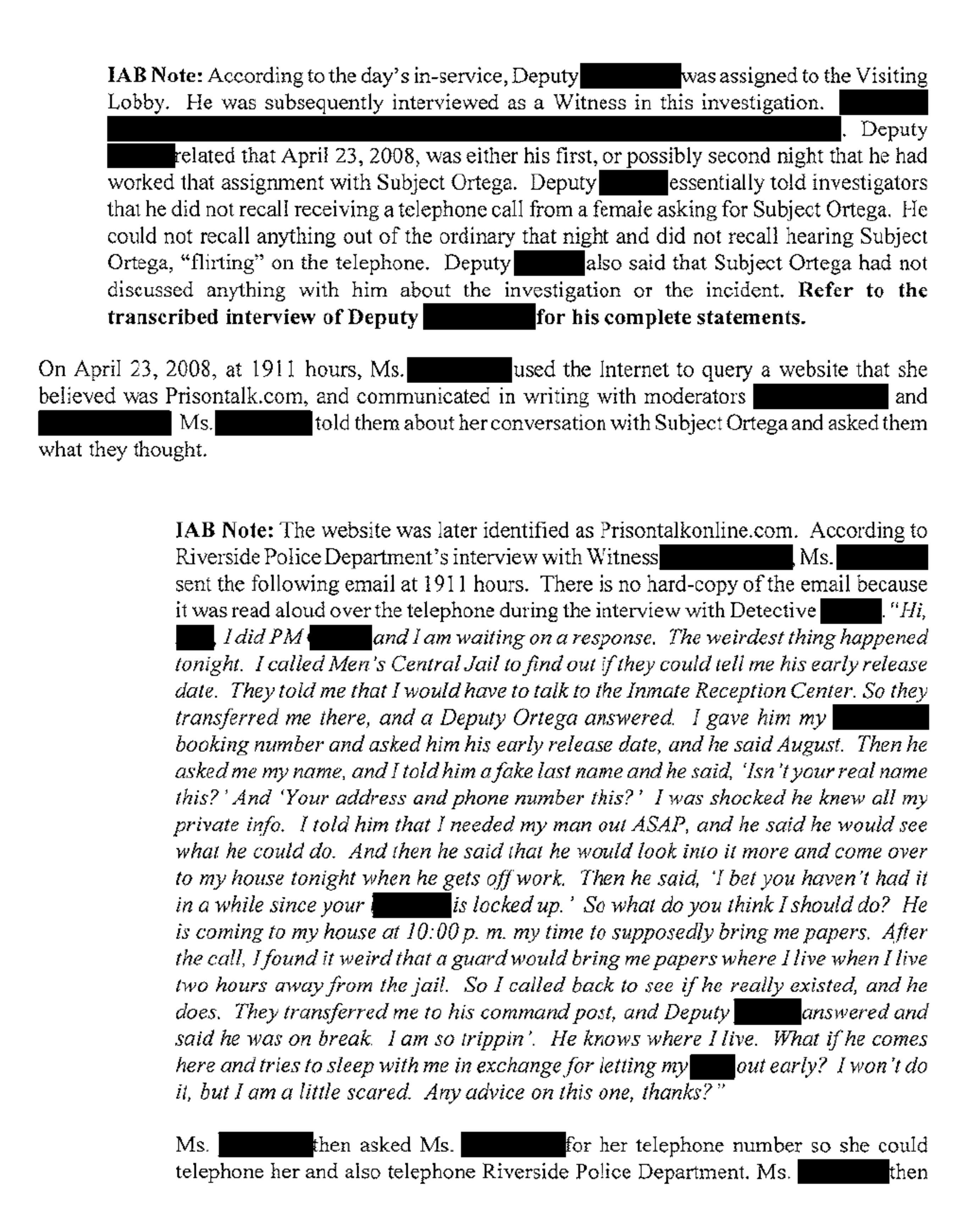
On April 23, 2008, Subject Cesar Ortega was assigned to the Visitor's Lobby at the Inmate Reception Center. His shift hours were 1400 hours to 2200 hours. According to Ms. [redacted] she telephoned the Men's Central Jail, sometime between 1400 hours and 1630 hours, and spoke to a Watch Commander. She complained that her [redacted], Inmate [redacted] was not being allowed to go outside. Ms. [redacted] was told that the roof needed repair. She then asked about the "early release program," and was told that she needed to talk to someone at the Inmate Reception Center.

> **IAB Note:** During the course of all of her interviews, Ms. [redacted] referred to Inmate [redacted] as either her [redacted] They were subsequently married on February 14, 2009. **Refer to Exhibit L, copy of the Los Angeles County Regional Identification System (LACRIS) printout on Inmate [redacted] indicating "[redacted]" as his [redacted] on his Emergency Contact.**

According to Ms. [redacted] her telephone call was transferred several times and eventually, she was transferred to the Inmate Reception Center and Deputy Ortega answered the telephone. Ms. [redacted] told him that she wanted to get information on the "early release program" for her [redacted] Inmate [redacted] and Subject Ortega asked for the booking number of Inmate [redacted] Subject Ortega asked Ms. [redacted] for her name and she told him, "[redacted] According to Ms. [redacted] Subject Ortega told her, "I show your name as [redacted]" She asked him how he knew that and he said, "I'm a cop, I know everything." He then told her, her address and telephone/cellular telephone number. They then discussed the early release program and Subject Ortega told Ms. [redacted] that he would print some information and bring it to her home after he was off work. Subject Ortega asked her how long her [redacted] had been in jail and after she told him, Subject Ortega said, something to the effect of, "Wow, you haven't had any for a while." Ms. [redacted] dismissed the conversation thinking Ortega was "flirty" and was, "full of it." According to Ms. [redacted] this call lasted seven to ten minutes.

> **IAB Note:** During subsequent interviews, Ms. [redacted] acknowledged that she too was flirtatious with Subject Ortega while on the telephone. During interviews with Subject Ortega, he said that the conversation started out "professional." He acknowledged that he was flirtatious with Ms. [redacted] Regarding the alleged statement, "Wow, you haven't had any for a while." During his interview with Internal Affairs Bureau, Subject Ortega said that his statement was something to the effect, "You haven't hung out for a while." **Refer to all transcribed interviews for complete statements.**

Ms. [redacted] didn't think Ortega was a "real cop" so she again telephoned the Men's Central Jail and was transferred several times and eventually transferred to Subject Ortega's work station, Inmate Reception Center, Visiting Lobby, [redacted]. Ms. [redacted] said a deputy answered and identified himself as Deputy [redacted] who told her that Subject Ortega was on a break. Deputy [redacted] asked if he could take a message, but Ms. [redacted] said, "No." She then hung up without giving her name or telephone number.

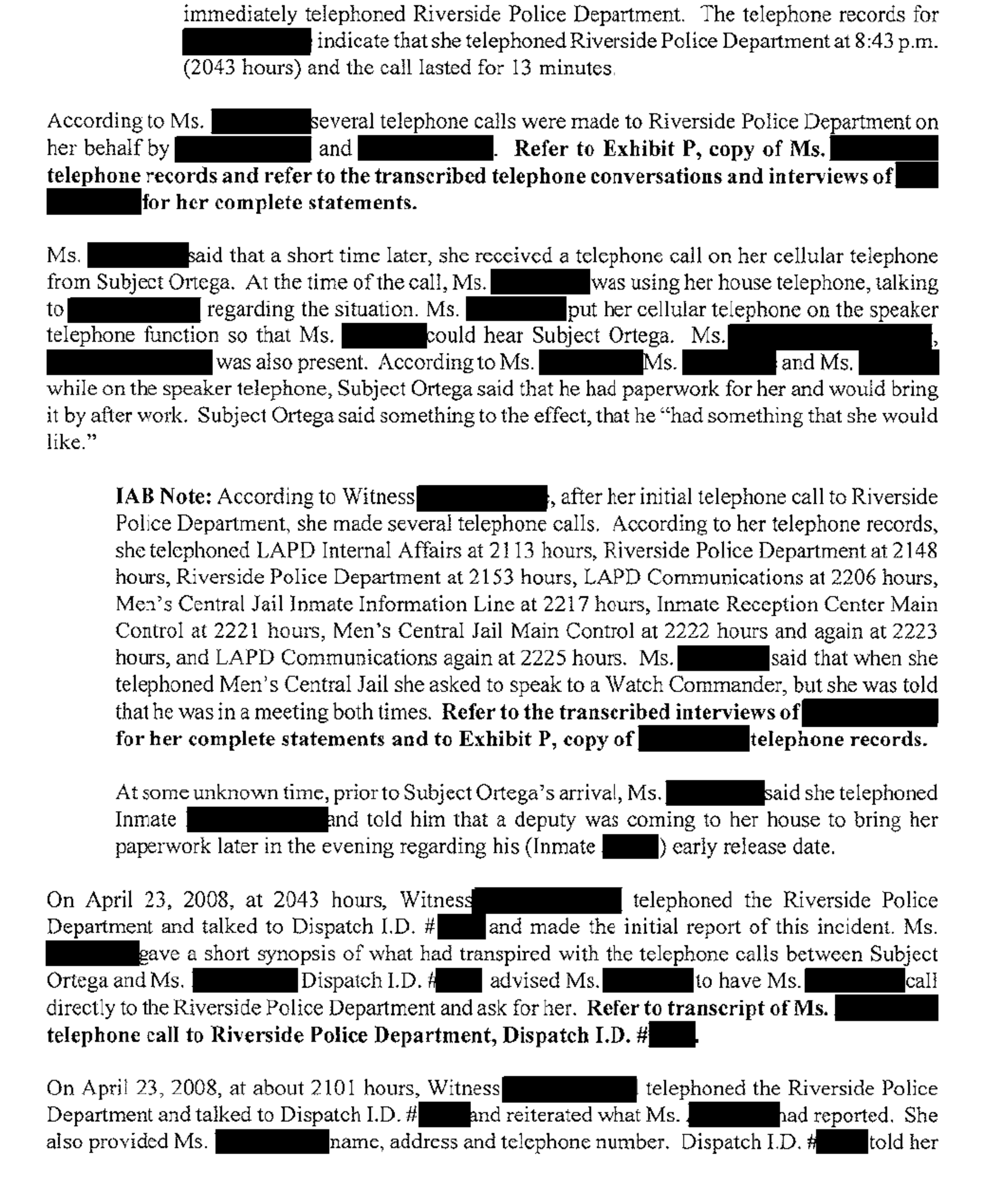


**IAB Note:** According to the day's in-service, Deputy [redacted] was assigned to the Visiting Lobby. He was subsequently interviewed as a Witness in this investigation. [redacted]. Deputy [redacted] related that April 23, 2008, was either his first, or possibly second night that he had worked that assignment with Subject Ortega. Deputy [redacted] essentially told investigators that he did not recall receiving a telephone call from a female asking for Subject Ortega. He could not recall anything out of the ordinary that night and did not recall hearing Subject Ortega, "flirting" on the telephone. Deputy [redacted] also said that Subject Ortega had not discussed anything with him about the investigation or the incident. **Refer to the transcribed interview of Deputy [redacted] for his complete statements.**

On April 23, 2008, at 1911 hours, Ms. [redacted] used the Internet to query a website that she believed was Prisontalk.com, and communicated in writing with moderators [redacted] and [redacted] Ms. [redacted] told them about her conversation with Subject Ortega and asked them what they thought.

**IAB Note:** The website was later identified as Prisontalkonline.com. According to Riverside Police Department's interview with Witness [redacted], Ms. [redacted] sent the following email at 1911 hours. There is no hard-copy of the email because it was read aloud over the telephone during the interview with Detective [redacted]. *"Hi, [redacted], I did PM [redacted] and I am waiting on a response. The weirdest thing happened tonight. I called Men's Central Jail to find out if they could tell me his early release date. They told me that I would have to talk to the Inmate Reception Center. So they transferred me there, and a Deputy Ortega answered. I gave him my [redacted] booking number and asked him his early release date, and he said August. Then he asked me my name, and I told him a fake last name and he said, 'Isn't your real name this?' And 'Your address and phone number this?' I was shocked he knew all my private info. I told him that I needed my man out ASAP, and he said he would see what he could do. And then he said that he would look into it more and come over to my house tonight when he gets off work. Then he said, 'I bet you haven't had it in a while since your [redacted] is locked up.' So what do you think I should do? He is coming to my house at 10:00 p. m. my time to supposedly bring me papers. After the call, I found it weird that a guard would bring me papers where I live when I live two hours away from the jail. So I called back to see if he really existed, and he does. They transferred me to his command post, and Deputy [redacted] answered and said he was on break. I am so trippin'. He knows where I live. What if he comes here and tries to sleep with me in exchange for letting my [redacted] out early? I won't do it, but I am a little scared. Any advice on this one, thanks?"*

Ms. [redacted] then asked Ms. [redacted] for her telephone number so she could telephone her and also telephone Riverside Police Department. Ms. [redacted] then



immediately telephoned Riverside Police Department. The telephone records for [redacted] indicate that she telephoned Riverside Police Department at 8:43 p.m. (2043 hours) and the call lasted for 13 minutes.

According to Ms. [redacted] several telephone calls were made to Riverside Police Department on her behalf by [redacted] and [redacted]. **Refer to Exhibit P, copy of Ms. [redacted] telephone records and refer to the transcribed telephone conversations and interviews of [redacted] for her complete statements.**

Ms. [redacted] said that a short time later, she received a telephone call on her cellular telephone from Subject Ortega. At the time of the call, Ms. [redacted] was using her house telephone, talking to [redacted] regarding the situation. Ms. [redacted] put her cellular telephone on the speaker telephone function so that Ms. [redacted] could hear Subject Ortega. Ms. [redacted], [redacted] was also present. According to Ms. [redacted] Ms. [redacted] and Ms. [redacted] while on the speaker telephone, Subject Ortega said that he had paperwork for her and would bring it by after work. Subject Ortega said something to the effect, that he "had something that she would like."

**IAB Note:** According to Witness [redacted], after her initial telephone call to Riverside Police Department, she made several telephone calls. According to her telephone records, she telephoned LAPD Internal Affairs at 2113 hours, Riverside Police Department at 2148 hours, Riverside Police Department at 2153 hours, LAPD Communications at 2206 hours, Men's Central Jail Inmate Information Line at 2217 hours, Inmate Reception Center Main Control at 2221 hours, Men's Central Jail Main Control at 2222 hours and again at 2223 hours, and LAPD Communications again at 2225 hours. Ms. [redacted] said that when she telephoned Men's Central Jail she asked to speak to a Watch Commander, but she was told that he was in a meeting both times. **Refer to the transcribed interviews of [redacted] for her complete statements and to Exhibit P, copy of [redacted] telephone records.**

At some unknown time, prior to Subject Ortega's arrival, Ms. [redacted] said she telephoned Inmate [redacted] and told him that a deputy was coming to her house to bring her paperwork later in the evening regarding his (Inmate [redacted]) early release date.

On April 23, 2008, at 2043 hours, Witness [redacted] telephoned the Riverside Police Department and talked to Dispatch I.D. # [redacted] and made the initial report of this incident. Ms. [redacted] gave a short synopsis of what had transpired with the telephone calls between Subject Ortega and Ms. [redacted] Dispatch I.D. # [redacted] advised Ms. [redacted] to have Ms. [redacted] call directly to the Riverside Police Department and ask for her. **Refer to transcript of Ms. [redacted] telephone call to Riverside Police Department, Dispatch I.D. # [redacted].**

On April 23, 2008, at about 2101 hours, Witness [redacted] telephoned the Riverside Police Department and talked to Dispatch I.D. # [redacted] and reiterated what Ms. [redacted] had reported. She also provided Ms. [redacted] name, address and telephone number. Dispatch I.D. # [redacted] told her

that she was going to send an officer to Ms. [redacted] address. Ms. [redacted] told Dispatch I.D. # [redacted] that she would immediately have Ms. [redacted] telephone her. **Refer to transcript of Ms. [redacted] telephone call to Riverside Police Department, Dispatch I.D. # [redacted]**

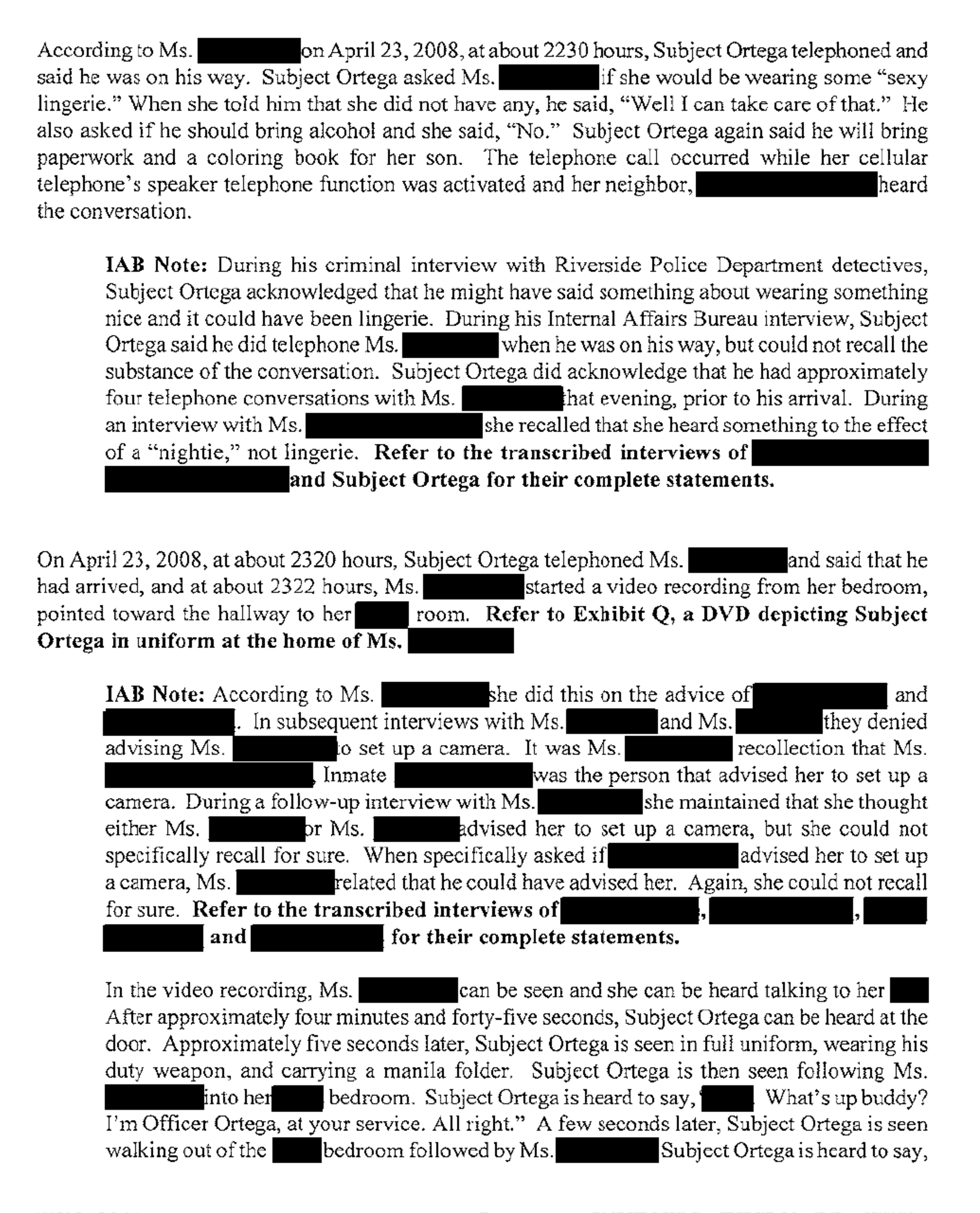
On April 23, 2008, at about 2106 hours, Ms. [redacted] telephoned the Riverside Police Department and spoke to Dispatch I.D. # [redacted] and reported the incident. Dispatch I.D. # [redacted] told Ms. [redacted] that an officer would be sent to her house "pretty quickly," and also advised that if Subject Ortega showed up before the officer, Ms. [redacted] should telephone back immediately and/or call 911. **Refer to transcript of Ms. [redacted] telephone call to Riverside Police Department, Dispatch I.D. # [redacted]**

On April 23, 2008, at about 2119 hours, a Suspicious Circumstances call was initiated by Dispatch I.D. # [redacted] and at about 2125 hours, Officer [redacted] was dispatched to Ms. [redacted] house.

On April 23, 2008, at about 2147 hours, according to Ms. [redacted] approximately five to ten minutes before Officer [redacted] arrived at her home, she received a telephone call from a Los Angeles County Sheriff's Department Watch Commander named "Hollowell." According to Ms. [redacted] Watch Commander Hollowell asked her for the number that she dialed to reach Deputy Ortega. She explained that she had been transferred a number of times and ended up with Deputy Ortega. Watch Commander Hollowell told her that he thought that she was talking to an inmate. He also told her that she had nothing to worry about; that nobody was coming to her house, and that she would be fine. According to Ms. [redacted] Lieutenant Hollowell said, "None of my officers would be stupid enough to say that on the telephone because we do record the telephone calls coming in." He told her that he would go and pull logs to see if someone named Ortega was taking inmate calls and have him pulled off the telephones.

> **IAB Note:** Ms. [redacted] made these statements during a subsequent telephone conversation with Internal Affairs Bureau Deputy Felicia Myers, and during her subsequent interviews. **Refer to the transcript of the telephone conversation with Deputy Myers, the transcript of Officer [redacted] interview with Ms. [redacted] the transcript of Internal Criminal Investigations Bureau's interview with Ms. [redacted] and the transcript of Riverside Police Department Detectives [redacted] and [redacted] interview with Ms. [redacted]**

On April 23, 2008, at 2157 hours, Officer [redacted] arrived at Ms. [redacted] home, and at 2159 hours, Officer [redacted] contacted Ms. [redacted] According to Ms. [redacted] she was concerned that he had parked his marked police car in front of her house. She was worried that Ortega would arrive, and know she telephoned the police. According to Ms. [redacted] she asked Officer [redacted] to move the patrol car and he refused. Since Ms. [redacted] had been told by a watch commander that a deputy was not coming, she told Officer [redacted] that he could leave. Officer [redacted] left and at 2206 hours, Officer [redacted] cleared the call at Ms. [redacted] and noted in his log, *"RP said she spoke to both LASO and LAPD. They are handling the case and she does not need our assistance."* **Refer to Exhibit M, a copy of Riverside Police Department's Incident Recall log.**



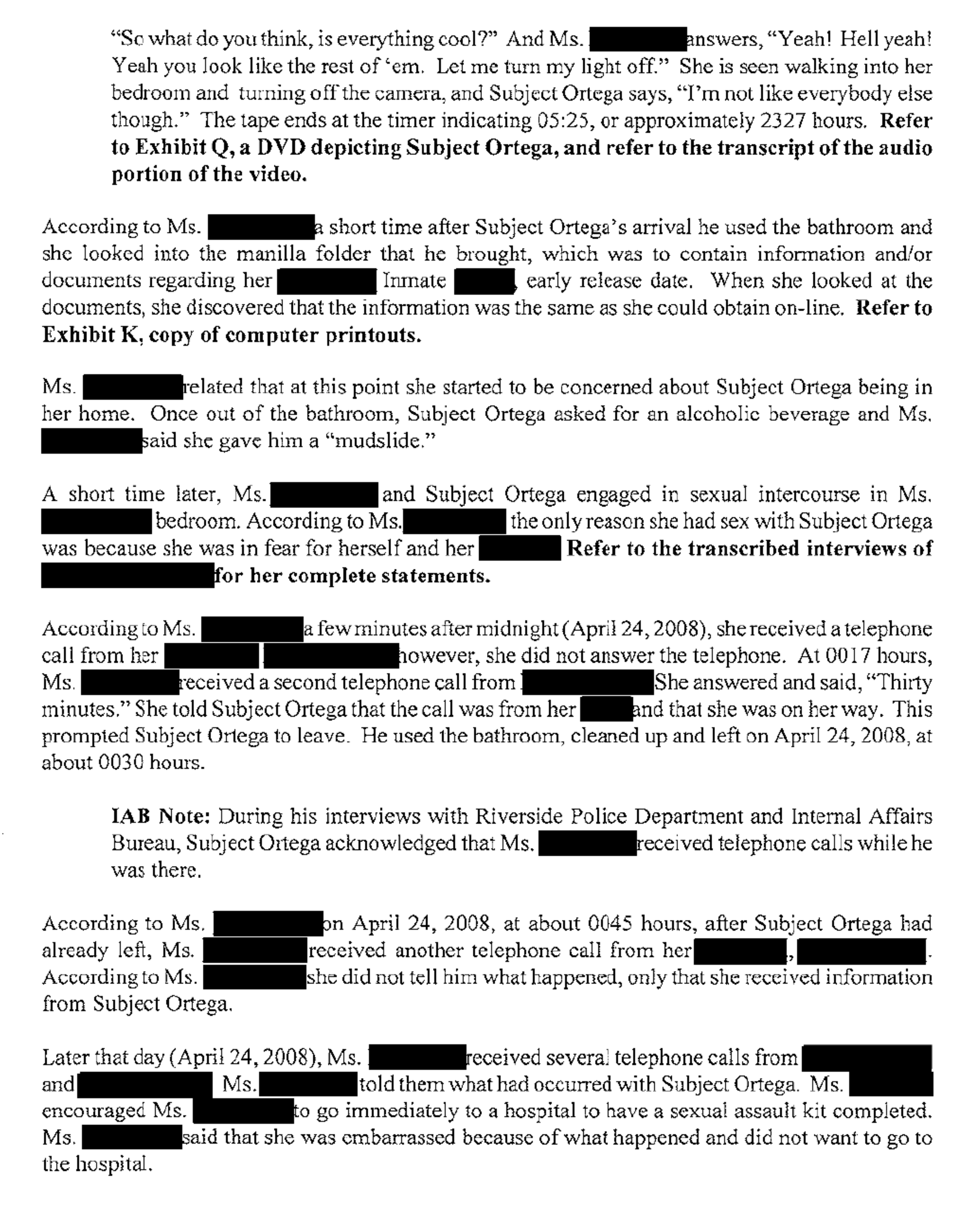
According to Ms. [redacted] on April 23, 2008, at about 2230 hours, Subject Ortega telephoned and said he was on his way. Subject Ortega asked Ms. [redacted] if she would be wearing some "sexy lingerie." When she told him that she did not have any, he said, "Well I can take care of that." He also asked if he should bring alcohol and she said, "No." Subject Ortega again said he will bring paperwork and a coloring book for her son. The telephone call occurred while her cellular telephone's speaker telephone function was activated and her neighbor, [redacted] heard the conversation.

> **IAB Note:** During his criminal interview with Riverside Police Department detectives, Subject Ortega acknowledged that he might have said something about wearing something nice and it could have been lingerie. During his Internal Affairs Bureau interview, Subject Ortega said he did telephone Ms. [redacted] when he was on his way, but could not recall the substance of the conversation. Subject Ortega did acknowledge that he had approximately four telephone conversations with Ms. [redacted]hat evening, prior to his arrival. During an interview with Ms. [redacted] she recalled that she heard something to the effect of a "nightie," not lingerie. **Refer to the transcribed interviews of [redacted] and Subject Ortega for their complete statements.**

On April 23, 2008, at about 2320 hours, Subject Ortega telephoned Ms. [redacted] and said that he had arrived, and at about 2322 hours, Ms. [redacted] started a video recording from her bedroom, pointed toward the hallway to her [redacted] room. **Refer to Exhibit Q, a DVD depicting Subject Ortega in uniform at the home of Ms. [redacted]**

> **IAB Note:** According to Ms. [redacted] she did this on the advice of [redacted] and [redacted]. In subsequent interviews with Ms. [redacted] and Ms. [redacted] they denied advising Ms. [redacted]o set up a camera. It was Ms. [redacted] recollection that Ms. [redacted], Inmate [redacted]was the person that advised her to set up a camera. During a follow-up interview with Ms. [redacted] she maintained that she thought either Ms. [redacted]r Ms. [redacted]dvised her to set up a camera, but she could not specifically recall for sure. When specifically asked if [redacted] advised her to set up a camera, Ms. [redacted] related that he could have advised her. Again, she could not recall for sure. **Refer to the transcribed interviews of [redacted], [redacted], [redacted] and [redacted] for their complete statements.**

In the video recording, Ms. [redacted] can be seen and she can be heard talking to her [redacted] After approximately four minutes and forty-five seconds, Subject Ortega can be heard at the door. Approximately five seconds later, Subject Ortega is seen in full uniform, wearing his duty weapon, and carrying a manila folder. Subject Ortega is then seen following Ms. [redacted] into her [redacted] bedroom. Subject Ortega is heard to say, "[redacted]. What's up buddy? I'm Officer Ortega, at your service. All right." A few seconds later, Subject Ortega is seen walking out of the [redacted] bedroom followed by Ms. [redacted] Subject Ortega is heard to say,



"So what do you think, is everything cool?" And Ms. [redacted] answers, "Yeah! Hell yeah! Yeah you look like the rest of 'em. Let me turn my light off." She is seen walking into her bedroom and turning off the camera, and Subject Ortega says, "I'm not like everybody else though." The tape ends at the timer indicating 05:25, or approximately 2327 hours. **Refer to Exhibit Q, a DVD depicting Subject Ortega, and refer to the transcript of the audio portion of the video.**

According to Ms. [redacted] a short time after Subject Ortega's arrival he used the bathroom and she looked into the manilla folder that he brought, which was to contain information and/or documents regarding her [redacted] Inmate [redacted] early release date. When she looked at the documents, she discovered that the information was the same as she could obtain on-line. **Refer to Exhibit K, copy of computer printouts.**

Ms. [redacted] related that at this point she started to be concerned about Subject Ortega being in her home. Once out of the bathroom, Subject Ortega asked for an alcoholic beverage and Ms. [redacted] said she gave him a "mudslide."

A short time later, Ms. [redacted] and Subject Ortega engaged in sexual intercourse in Ms. [redacted] bedroom. According to Ms. [redacted] the only reason she had sex with Subject Ortega was because she was in fear for herself and her [redacted] **Refer to the transcribed interviews of [redacted] for her complete statements.**

According to Ms. [redacted] a few minutes after midnight (April 24, 2008), she received a telephone call from her [redacted] [redacted] however, she did not answer the telephone. At 0017 hours, Ms. [redacted] received a second telephone call from [redacted] She answered and said, "Thirty minutes." She told Subject Ortega that the call was from her [redacted] and that she was on her way. This prompted Subject Ortega to leave. He used the bathroom, cleaned up and left on April 24, 2008, at about 0030 hours.

**IAB Note:** During his interviews with Riverside Police Department and Internal Affairs Bureau, Subject Ortega acknowledged that Ms. [redacted] received telephone calls while he was there.

According to Ms. [redacted] on April 24, 2008, at about 0045 hours, after Subject Ortega had already left, Ms. [redacted] received another telephone call from her [redacted], [redacted]. According to Ms. [redacted] she did not tell him what happened, only that she received information from Subject Ortega.

Later that day (April 24, 2008), Ms. [redacted] received several telephone calls from [redacted] and [redacted] Ms. [redacted] told them what had occurred with Subject Ortega. Ms. [redacted] encouraged Ms. [redacted] to go immediately to a hospital to have a sexual assault kit completed. Ms. [redacted] said that she was embarrassed because of what happened and did not want to go to the hospital.

Ms. [redacted] drove herself to Riverside County Regional Medical Center and arrived on April 24, 2008, at about 1652 hours. As she arrived, Ms. [redacted] received a telephone call from Internal Affairs Bureau Deputy Felicia Myers. Ms. [redacted] related the incident to Deputy Myers.

> **IAB Note:** During the day, Ms. [redacted] made several telephone calls on behalf of Ms. [redacted] Five of the telephone calls were to un-recorded telephone lines at the Internal Affairs Bureau. Ms. [redacted] provided Deputy Myers with the information and Ms. [redacted] telephone number. Deputy Myers telephoned Ms. [redacted] This telephone conversation with Deputy Myers was Ms. [redacted] first account of the incident. **Refer to Exhibit A, Watch Commander's Service Comment Report #209232 and refer to the transcript of the telephone call.**

On April 24, 2008, at about 1735 hours, Officer [redacted] arrived at Riverside County Regional Medical Center, and at 1806 hours, Officer [redacted] interviewed Ms. [redacted] at the hospital. **Refer to Exhibit B, a copy of the Initial Report written by Officer [redacted] and refer to the transcript of the interview with Ms. [redacted] Also refer to Exhibits N and O, copies of Riverside Police Department's Incident Recall logs.**

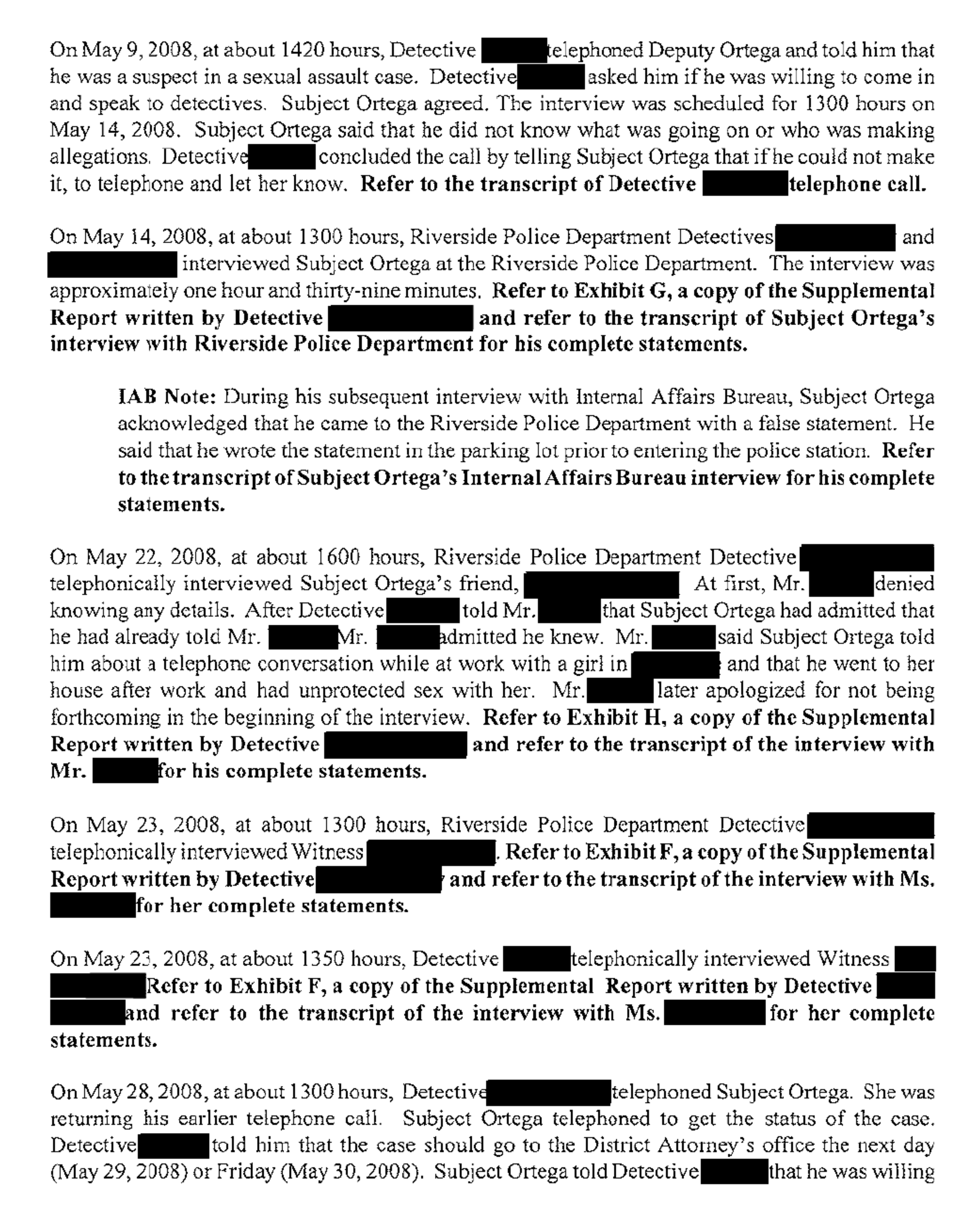
On April 24, 2008, at about 2234 hours, Los Angeles Sheriff's Department Internal Criminal Investigations Bureau Sergeants William Cassidy and Robert Lopez interviewed Ms. [redacted] at Riverside Community Regional Medical Center. **Refer to the transcript of the interview with Ms. [redacted]**

> **IAB Note:** At the conclusion of this interview, it was determined that the Internal Criminal Investigations Bureau would not be involved in this investigation, and that it would be handled by the Riverside Police Department.

The next morning, April 25, 2008, at about 0001 hours, Officer [redacted] interviewed Witness [redacted] In her interview, Witness [redacted] said that she heard Subject Ortega talking on Ms. [redacted] cellular telephone, when Ms. [redacted] put her telephone on the "speaker" function. Ms. [redacted] said she heard Subject Ortega say something to the effect of, "I've got some paper work that you are going to like." **Refer to Exhibit B, a copy of the Initial Report written by Officer [redacted] and refer to the transcript of the interview with Ms. [redacted] for her complete statements.**

On April 25, 2008, at about 1345 hours, Ms. [redacted] was interviewed at Riverside Police Department by Detectives [redacted] and [redacted]. The interview was approximately three hours and twenty minutes. **Refer to Exhibit F, a copy of a Supplemental Report written by Detective [redacted] and refer to the transcript of the interview with Ms. [redacted] for her complete statements.**

On April 25, 2008, at about 1400 hours, Subject Ortega was relieved of duty and reassigned to Property and Evidence.



On May 9, 2008, at about 1420 hours, Detective [redacted]elephoned Deputy Ortega and told him that he was a suspect in a sexual assault case. Detective[redacted] asked him if he was willing to come in and speak to detectives. Subject Ortega agreed. The interview was scheduled for 1300 hours on May 14, 2008. Subject Ortega said that he did not know what was going on or who was making allegations. Detectiv[redacted] concluded the call by telling Subject Ortega that if he could not make it, to telephone and let her know. **Refer to the transcript of Detective [redacted] telephone call.**

On May 14, 2008, at about 1300 hours, Riverside Police Department Detectives [redacted] and [redacted] interviewed Subject Ortega at the Riverside Police Department. The interview was approximately one hour and thirty-nine minutes. **Refer to Exhibit G, a copy of the Supplemental Report written by Detective [redacted] and refer to the transcript of Subject Ortega's interview with Riverside Police Department for his complete statements.**

> **IAB Note:** During his subsequent interview with Internal Affairs Bureau, Subject Ortega acknowledged that he came to the Riverside Police Department with a false statement. He said that he wrote the statement in the parking lot prior to entering the police station. **Refer to the transcript of Subject Ortega's Internal Affairs Bureau interview for his complete statements.**

On May 22, 2008, at about 1600 hours, Riverside Police Department Detective [redacted] telephonically interviewed Subject Ortega's friend, [redacted] At first, Mr. [redacted] denied knowing any details. After Detective [redacted] told Mr. [redacted] that Subject Ortega had admitted that he had already told Mr. [redacted] Mr. [redacted]dmitted he knew. Mr. [redacted] said Subject Ortega told him about a telephone conversation while at work with a girl in [redacted] and that he went to her house after work and had unprotected sex with her. Mr. [redacted] later apologized for not being forthcoming in the beginning of the interview. **Refer to Exhibit H, a copy of the Supplemental Report written by Detective [redacted] and refer to the transcript of the interview with Mr. [redacted] for his complete statements.**

On May 23, 2008, at about 1300 hours, Riverside Police Department Detective [redacted] telephonically interviewed Witness [redacted]. **Refer to Exhibit F, a copy of the Supplemental Report written by Detective [redacted] and refer to the transcript of the interview with Ms. [redacted] for her complete statements.**

On May 23, 2008, at about 1350 hours, Detective [redacted] telephonically interviewed Witness [redacted] **Refer to Exhibit F, a copy of the Supplemental Report written by Detective [redacted]nd refer to the transcript of the interview with Ms. [redacted] for her complete statements.**

On May 28, 2008, at about 1300 hours, Detectiv[redacted] telephoned Subject Ortega. She was returning his earlier telephone call. Subject Ortega telephoned to get the status of the case. Detective [redacted] told him that the case should go to the District Attorney's office the next day (May 29, 2008) or Friday (May 30, 2008). Subject Ortega told Detective [redacted] that he was willing

to take a polygraph. On May 28, 2008, at about 1400 hours, Detective [redacted] telephoned Subject Ortega again. She told him that she had spoken to the polygraph technician, and he advised that a polygraph would not be necessary. **Refer to the transcripts of the telephone calls for the complete statements.**

On June 6, 2008, Detective [redacted] received a telephone call from Ms. [redacted] Ms. [redacted] advised her that she had just received a telephone call from Subject Ortega. According to Ms. [redacted] Subject Ortega told her that he was going to sue her for making a false police report. He also told her that he was going to take a polygraph test to prove his innocence. Also according to Ms. [redacted] Subject Ortega asked her why she reported a rape when it was consensual. He told her to quit "lying." **Refer to Exhibit I, a copy of the Supplemental Report written by Detective [redacted]**

On June 17, 2008, at about 1034 hours, Detective [redacted] telephoned Subject Ortega and gave him an update on the case. She told him that the case was submitted to the District Attorney's office for review. Detective [redacted] asked Subject Ortega why he had telephoned Ms. [redacted] about two weeks prior to June 17, 2008. Subject Ortega told Detective [redacted] that he wanted Ms. [redacted] to know he was going to take a polygraph test and that she should tell the truth and "stop wasting everyone's time." Subject Ortega told Detective [redacted] did he did not threaten Ms. [redacted] Subject Ortega said that he audio recorded the conversation and would provide it to Detective [redacted] **Refer to Exhibit I, a copy of the Supplemental Report written by Detective [redacted] and refer to the transcript of the telephone call.**

> **IAB Note:** Later that week, Subject Ortega left a voice message with Detective [redacted] saying that he "deleted" the recording. During his interview with Internal Affairs Bureau, Subject Ortega was asked if he did record this telephone conversation with Ms. [redacted] and he initially said, "No." When asked why he told Detective [redacted] that he did record the telephone conversation, Subject Ortega provided an explanation. **Refer to the transcript of Internal Affairs Bureau's interview with Subject Ortega for his complete statements.**
>
> During his interview with Internal Affairs Bureau, Subject Ortega agreed to provide his digital audio recorder to investigators. The purpose of this was to see if there was still a recording on the memory card inside the recorder. Subject Ortega said he would provide the recorder if he could find it. As of the completion of this case, Subject Ortega has not provided the recorder.

On July 11, 2008, Riverside County Deputy District Attorney Chris Shumate declined to file charges in this case due to lack of sufficient evidence, writing, "The crime can't be proven beyond a reasonable doubt." **Refer to Exhibit J, a copy of the Supplemental Report written by Detective [redacted] and the District Attorney Complaint Assessment form.**

On January 14, 2009, at about 1455, I telephonically interviewed Ms. [redacted] She essentially acknowledged that she gave full, complete and truthful statements in all of her prior interviews. **Refer to the transcript of the interview with Ms. [redacted] for her complete statements.**

On January 26, 2009, Internal Affairs Bureau Sergeant Diana Gealta and Lieutenant William Hines interviewed **Deputy [redacted]** as a Witness in this investigation. The interview was conducted in the Captain's Conference Room at Inmate Reception Center. At the time of the incident, Deputy [redacted] was a [redacted] and Subject Ortega was [redacted]. They were both assigned to the Visiting Lobby, which is a small booth and is normally a one-deputy position. Before being interviewed, Deputy [redacted] read and signed the Witness Admonition form and said that he understood the form. His interview is summarized as follows:

Deputy [redacted] related that he was a [redacted] at the time of the incident. Deputy [redacted] did not recall Subject Ortega talking to or flirting with anyone on the telephone that night. Deputy [redacted] said he did not recall receiving a telephone call from a female asking for Subject Ortega. Deputy [redacted] said that Subject Ortega did not tell him anything about the incident. **Refer to the transcript of the interview with Deputy [redacted] for his complete statements.**

On March 24, 2009, Internal Affairs Bureau Sergeant Diana Gealta and Lieutenant William Hines interviewed **Subject Cesar Ortega** at the Internal Affairs Bureau. Subject Ortega read and signed the Subject's Admonishment form prior to the interview. Also present during the interview was Subject Ortega's attorney, Bonnie Lane, from the Law Offices of Green and Shinee. The following is a brief summary of the interview.

Subject Ortega acknowledged that he first spoke to Ms. [redacted] on the telephone on the indicated date while assigned to the Inmate Reception Center Visiting Lobby. He related that the telephone conversation began as a "professional" call from a person inquiring about a release date of an [redacted] The person became "flirtatious" and Subject Ortega acknowledged that he too became "flirtatious." Subject Ortega asked the person what she looked like and he offered to come to her house after work to deliver documents that contained the release date of her [redacted] Inmate [redacted]

> **IAB Note:** Subject Ortega said that Ms. [redacted] told him that Inmate [redacted] was her [redacted] Subject Ortega said that if he had known that Inmate [redacted] was Ms. [redacted] he would not have gone to her home. **Refer to Exhibit L, a copy of the LACRIS printout on Inmate [redacted] indicating "[redacted]" as his [redacted] on his Emergency Contact.**

Subject Ortega said he left work after his shift was complete and that he was "off-duty" at the time. Subject Ortega said that when he arrived, he changed into his uniform in the back seat of his car prior to going to the door. Subject Ortega explained that the reason he brought and wore his uniform was because "[redacted]" had told him that her [redacted] was getting in trouble and that the uniform might influence him. Subject Ortega said that a short time after his arrival, he consumed an alcoholic beverage and eventually had sexual intercourse with [redacted] [[redacted]

**IAB Note:** During his interview with Riverside Police Department detectives, Subject Ortega did not relate to them that the reason he wore his uniform was because Ms. [redacted], was getting into trouble. During a follow-up interview with Ms. [redacted] she denied that she ever told Subject Ortega that her [redacted] was in trouble. Additionally, during his Internal Affairs Bureau interview, Subject Ortega said that when he met Ms. [redacted] son, [redacted], he asked him about getting into trouble. The audio portion of the video does not pick up any conversation about [redacted] "getting into trouble." **Refer to the transcript of the audio portion of the DVD.**

Regarding the prepared statement, Subject Ortega acknowledged that he prepared a false written statement that he used during his interview with the Riverside Police Department detectives, and that he did this "knowingly."

Regarding his telephone call to Ms. [redacted] on June 6, 2008, Subject Ortega denied that he threatened her. He only wanted her to "tell the truth."

Near the conclusion of his interview, Subject Ortega was asked if he believed that he did not do anything wrong regarding this incident and, he answered, "Yes, I feel I didn't do anything wrong." **Refer to the transcript of Subject Ortega's interview for his complete statements.**

**IAB Note:** On March 25, 2009, Subject Ortega was ordered to remain at home during normal business hours.

Internal Affairs Bureau Lieutenant William Hines conducted six follow-up telephonic interviews, three with Ms. [redacted] and three with Ms. [redacted] The interviews were to obtain the approximate times of the telephone calls that they made related to this incident and to ask them, specifically, if they advised Ms. [redacted] to set up a video camera prior to Subject Ortega's arrival. Ms. [redacted] and Ms. [redacted] said that they did not advise Ms. [redacted] to set up a camera. Ms. [redacted] recollected that Ms. [redacted] Inmate [redacted] had advised her to set up the camera. **Refer to the interview transcripts of Ms. [redacted] and Ms. [redacted] for their complete statements. Also refer to Exhibit P, copy of Ms. [redacted] telephone records related to this case.**

On April 10, 2009, Internal Affairs Bureau Sergeant Teri Roberts and Lieutenant William Hines conducted follow-up interviews with Ms. [redacted] Ms. [redacted] and Mr. [redacted] The interviews were conducted at the Law Offices of Longo and Longo at 2800 28th Street, Santa Monica. Attorney Lawrence Longo was present during the three interviews.

**IAB Note:** Ms. [redacted] advised investigators during her interview that her name is now [redacted] not [redacted] She said that she [redacted] on February 14, 2009.

Ms. [redacted] related that she overheard Subject Ortega through the speaker function of Ms. [redacted] cellular telephone. **Refer to the transcript of Ms. [redacted] interview for her complete statements.**

Ms. [redacted] related that she did not tell Subject Ortega that her [redacted], was getting into trouble. She also related that as Subject Ortega left, she did not tell him that she was a prior drug user. **Refer to the transcript of Ms. [redacted] interview for her complete statements.**

Mr. [redacted] related that he did not recall telling Ms. [redacted] to set up a video camera prior to Subject Ortega's arrival. **Refer to the transcript of Mr. [redacted] interview for his complete statements.**



Leroy D. Baca, Sheriff

# County of Los Angeles
## Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



June 25, 2009

Deputy Cesar Ortega, #[redacted]
[redacted]

Dear Deputy Ortega:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective the close of business July 16, 2009.

An investigation under File Number IAB 2219241, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.90, Prohibited Association, on or about April 23, 2008, while on duty, you engaged in flirtatious conversation with Ms. [redacted] who was the romantic companion of Inmate Ronald Jones, after she telephoned the Inmate Reception Center for assistance concerning the release of Inmate [redacted] Ms. [redacted] referred to Inmate [redacted] as her [redacted] Furthermore, while talking to Ms. [redacted] you admit to reading your computer screen wherein it indicated that Ms [redacted]elationship to Inmate [redacted] was [redacted] At the end of your shift, you then drove to Ms. [redacted] residence in [redacted] wearing your Class A uniform and wearing your duty weapon, and engaged in sexual intercourse with Ms. [redacted]

2. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/000.10, Professional Conduct; and/or 3-01/030.07, Immoral Conduct, on or about April 23, 2008, you received a telephone call from Ms. [redacted] the romantic companion of an in-custody inmate [redacted] and then arranged a date with her for that evening wherein you drove to Ms. [redacted] home while dressed in your Class A uniform and wearing your duty weapon, and then provided Ms. [redacted] with paperwork concerning Inmate [redacted] and thereafter had sexual relations with Ms. [redacted] Your actions of going to the home of an inmate's romantic companion wearing a Class A uniform and wearing your duty weapon, for the purpose of having sex, not only brought discredit upon yourself and the Sheriff's Department, but caused the Sheriff's Department to be brought into disrepute. Moreover, your actions are contrary to this Department's Core Values, Mission and Creed.

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 13, 2008, during a telephone conversation with Riverside Police Department Detective [redacted] you made false statements, including, but not limited to, "I had a problem with her at work," referring to Ms. [redacted] who filed criminal charges against you and those charges were under investigation by the Riverside Police Department.

4. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 14, 2008, during a Riverside Police Department criminal investigation following your contact with the victim, Ms. [redacted] you made false and/or misleading statements to police officers, including but not limited to:

   a) "There was an incident at work that I was working the public lobby and there was a person that showed up to the window," and/or;

b) "This is basically what I think is related to this case because it's the only type of threat that I got about, you know, about my job," and/or;

c) "While working the lobby, a Caucasian woman between the ages of 25 to 30 years of age, about 5'7", brown shoulder length hair, blue eyes, weighing about 250, 270, around there, approached my window. She wanted to know the release date of her [redacted] and if I could give her this release date printed, so that she could take it to the Child Support Services," and/or;

d) "So after that I – I printed out a couple copies just to stating, you know, his – his – his release date, and I also said you know, 'Hey, do you know what his charge was?' And she said his charge was rape. So she's like, 'But he didn't do it. It was just somebody else got back at him because he owed that person money.' So it was just kind of like a joke to her. I don't know what it was," and/or;

e) "So anyways, I gave her these two papers and, you know, just she's kind of telling me it was for child support services and stuff like that. I'm saying, okay. So I ended up, you know, giving her the information. And she asked me – she's like, 'Well, you're one of the nicest deputies that I've ever encountered.' And I said, 'Oh,' you know, 'thank you.' And she's like, well – she's like, 'Is there any way we could go out sometime,' you know 'and hang out?' And I said, 'Well, ma'am, you know, I'm sorry. I'm [redacted] And she's like, 'Well, here's my number just in case,' and she puts it in the window," and/or;

f) "So, I just kind of tossed it away, I was, like, 'you know what, ma'am? Like I said, I'm not' you know, 'it's not gonna happen.' You know, 'I'm [redacted] It's not gonna go anywhere.' And she's, like, she started getting a little upset and she's, like, 'well, you know, we'll have fun.' She kind of kept going on with this.

And I said 'Ma'am, can you please leave or I'll have you escorted by security.' So she said – she's, like – well, she kind of got upset and told me, well this is – she told me – I wrote it here – she said – she wanted to know my name, and/or;

g) "And she said, 'Well, I'm sick of getting rejected.' She's, like, 'You're gonna regret this,' and she just stormed away," and/or;

h) "That was the last time I – first time I seen her, I never had contact with her, and the last time I seen her and had contact with her that day. That was on the 23rd of April...," and/or;

i) "And the number, actual number on her – on the – the paper, it just said – it said [redacted] and it was a [redacted] area code. I don't remember the rest of the number," and/or;

j) In response to when she was there, "It was later on in the afternoon around, let's see, I'd like to say, around 2000 to 2200, around that time," and/or;

k) "So, like I said, that was the only type of threat I ever had, you know, ever working there. So I figured, you know, I started when they called me in that day, I – I just started jotting down notes and what I remember, you know, who this person was that gave me that threat...," and/or;

l) "She was by herself or had a [redacted] I don't remember if she had a few [redacted] running around I think," and/or;

m) "She just asked me out a couple times and then that's when she, you know, left her number and I said, you know, I told her. You know, obviously she got upset. Maybe she had a couple more instances, you know, asked other deputies before. Who knows," and/or;

n) That you did not see or speak to her at any time other than on the 23rd between 2000 and 2200 hours, and/or;

o) "I mean, obviously, she said 'This is the last time I got – this is the last time I'm gonna get rejected.' Obviously, she might have asked a lot of people out before and they said 'no,' or just, you know, because of her appearance, I'm not sure. But, obviously, she took it out on me, and now I'm pretty much, you know, the victim here..," and/or;

p) "Well, she's, like, 'well, let's,' you know 'if you want to meet at my house we can do that,' and/or;

q) That you stayed at the home of the victim of the investigation until 0200 hours, and/or;

r) When you initially stated you did not have your weapon, that is was in your work locker, and/or;

s) That when you arrived at the victim's residence, you did not tell a witness that you were at the location to serve a warrant, and/or;

t) When you stated that during a subsequent telephone call on April 25th, she [Ms. [redacted] made reference to her [redacted] and/or;

u) When you told Ms.[redacted] prior to leaving her residence on or about April 23d, "I told her she was a nice person. I said 'yeah, you're a cool girl.' Because after she told me, 'I don't care if you're married.' I said, 'well, you know, you're a nice person,' I said, 'but you live pretty far,' you know. And that's it. She just said 'All right, well,' you know, 'Nice to meet you,' and I never really told her 'Hey, I'll come back here or I'll see you,' or something like that. You know, I was just – I wasn't really intending on maybe – because she lives far, you know. It's not to have a relationship, you know, a friendship it's just too far."

5. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about March 24, 2009, you

made false statements during your subject interview concerning your contact with Ms. Kelleghan on April 23, 2008, including, but not limited to:

a) she "wanted...information on what she said was her [redacted]" and/or;

b) "she told me she wanted information on his release date so she could serve him for child support paperwork," and/or;

c) Stating in reference to the Complainant's [redacted]..obviously thinking that it was her [redacted] she had no ties to an inmate or – which I thought at the time...," and/or;

d) In response to a question on your understanding of the prohibited association policy, stating "my impression on the whole thing was that she had not talked to this man, and that's why she wanted to know his release date. If she was talking to him on the phone or had a relationship, she would have already known his release date. Why would she call me? So I figured well, she hasn't talked to this guy, there is no ties. She said he was an [redacted] I figured hey, it's okay. Granted, she was – if she would have told me that it was her [redacted] or her [redacted] I would have never, ever went out with her. Or even had a conversation, after that, the initial conversation as far as his release date, or information," and/or;

e) that she asked me if...I could bring my uniform because her son was, uh, in some type of trouble and, uh, she wanted me to talk to him. And she figured she would, you know, she would, uh, she figured he would, you know, listen to me if I had my uniform on. So I just, I mean I figured it was kind of odd, but, uh, she ended — I ended up, you know, after work I, uh, I remembered I had a spare uniform in my truck, so I, uh, got dressed, you know, my regular civilian clothes, drove down there..." and/or;

f) that you spoke to the Complainant's son about getting into trouble, and/or;

g) "I asked her why her [redacted] was in jail. 'Cause I really didn't see what information was on it. And she said he was, uh, he said – she said that he owed money to this woman and this woman, uhm, accused him of rape, so – she told me that. And I said okay, I said, 'Well, how do you know this woman?' 'How do you guys know this woman?' And she said, 'Oh, we all used to do drugs together.' So at that time when she told me that, I kind of figured you know what, I really don't associate with these kind of people that do drugs, so I just wanted to get out of there, I put on my clothes." As she was walking me out, I asked her, I said, 'Look, uh, I don't associate with people that do drugs.' I said, 'I've never done 'em, you know, I just – I don't associate, and plus, you're not my type', you know. I said she kind of gave a wrong description of herself. I told her, 'I'm not gonna come back here anymore,' I said, 'I'm not – I'm not gonna come back.' So she got upset, kind of huffing and puffing. She didn't say much, but she turned around and walked away. Um, at that time, I just got in my car and, uh, left without any further incident. And that's the honest truth. I mean to my recollection," and/or;

h) that Ms. [redacted] told you over the phone that "she was, single, she had, you know, [redacted] she had no ties, she didn't know when he was getting out or anything like that," and/or;

i) that you did not tell Ms. [redacted] that you could delete the [redacted] comment from the computer, and/or;

j) that the victim [Ms. [redacted]] never asked you about an early release date.

6. That in violation of Manual of Policy and Procedures Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or

about June 6, 2008, you telephoned Ms. [redacted] during the criminal investigation for which you were a suspect and then secretly recorded your conversation with her which you later deleted.

7. That in violation of Manual of Policy and Procedures Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about June 6, 2008, you telephoned and spoke to the victim during the criminal investigation for which you were a suspect. While on the telephone, you made statements to the victim (Ms. [redacted] which included, but were not limited to "Stop wasting everybody's time" and words to the effect of, that you were going to "sue" her. The cumulative impact of your statements to Ms. [redacted] had the effect of scaring her and causing her to tell you she would move away.

8. That in violation of Manual of Policy and Procedures Sections 3-01/040.95, Confidential Information and/or 3-01/100.45, Use of Communications Equipment, on or about April 23, 2008, you accessed Inmate [redacted] record for unofficial purposes and then provided the information to Ms. [redacted] without permission.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Alexander Yim on July 10, 2009, at 0900 hours, in his office, which is located at Twin Towers Correctional Facility, 450 Bauchet Street, Los Angeles, Room E-826. If you are unable to appear at the scheduled time and wish to schedule some other time prior to July 10, 2009, for your oral response, please call Chief Yim's secretary at [redacted], for an appointment.

If you choose to respond in writing, please call Chief Yim's secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Yim's office by no later than July 10, 2009.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid

administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Karyn Mannis

Karyn Mannis, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

KM:lh

c: Advocacy Unit
Employee Relations Unit
Chief Alexander Yim, Correctional Services Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File #2219241)



# CIVIL SERVICE COMMISSION
COUNTY OF LOS ANGELES



July 11, 2012

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of* ***CESAR ORTEGA*** *for a hearing on his* ***discharge****, effective July 16, 2009, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 09-1299**.

The Civil Service Commission, at its meeting held on June 27, 2012 approved findings in the above-entitled case. The objections submitted were overruled.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure, as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Lawrence D. Crocker
Executive Director

LDC:se

Enclosure

c: Cesar Ortega
Elizabeth Gibbons
William Balderrama
Joseph Scully

ROOM 522 KENNETH HAHN HALL OF ADMINISTRATION • 500 W. TEMPLE STREET, LOS ANGELES, CA 90012 • TELEPHONE (213) 974-2411 • FAX (213) 974-2534

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

| | |
|---|---|
| In the matter of the **discharge**, effective July 16, 2009, from the position of Deputy Sheriff, Sheriff's Department, of<br><br>**CESAR ORTEGA**<br>**(Case No. 09-1299)** | ORDER OF THE CIVIL SERVICE COMMISSION |

On June 27, 2012, the Civil Service Commission of the County of Los Angeles, having read the foregoing Findings of Fact, and good cause appearing therefor, overruled the petitioner's objections. The Commission adopted as its final decision, the findings and recommendation of the Hearing Officer, Joseph Scully, to sustain the Department. Commissioners Felton and Martinez dissented.

Dated this 11th day of July, 2012.

(Dissented) EVELYN V. MARTINEZ, President

LYNN ADKINS, Member

(Dissented) VANGE FELTON, Member

CAROL FOX, Member

Z. GREG KAHWAJIAN, Member

LOS ANGELES COUNTY
CIVIL SERVICE COMMISSION

| | | |
|---|---|---|
| In the Matter of the Appeal by | ) | |
| | ) | Case No. 09-1299 |
| **CESAR ORTEGA,** | ) | |
| Appellant | ) | |
| v. | ) | RECOMMENDED DECISION, FINDINGS OF |
| | ) | FACT, CONCLUSIONS OF LAW |
| **SHERIFF'S DEPARTMENT** | ) | |
| | ) | |
| Respondent. | ) | |

## APPEARANCES

| | |
|---|---|
| For the Appellant: | Elizabeth J. Gibbons, Esq.<br>Green & Shinee<br>16055 Ventura Boulevard<br>Suite 1000<br>Encino, California 91436 |
| For the Respondent: | William Balderama, Esq.<br>1000 S. Fremont Ave., Bldg. A1, Suite 1122<br>Mail Box Unit 63<br>Alhambra, California 91803 |
| Hearing Officer: | Joseph P. Scully |
| Dates of Hearing: | 5/20/10, 2/14/11, 2/16/11, 7/14/11, 8/16/11 |



## ISSUES

On October 7, 2009, the Commission defined the issues in the Ortega appeal to be:

1. Are the allegations contained in the department's letter of July 20, 2009 true?

2. If any or all are true, is the discipline appropriate?

## CASE SUMMARY

This matter involves the appeal by terminated Sheriff's Department ("Department") employee Deputy Cesar Ortega. The hearing dates in this matter were: 5/20/10, 2/14/11, 2/16/11, 7/14/11, 8/16/11. Respondent called five witnesses: Riverside Police Department "RPD" Officer [redacted] RPD Detective [redacted] Department Chief Alexander R. Yim, and [redacted] Appellant called a single witness, himself, Cesar Ortega. (There was also a stipulation by the parties that if RPD Detective [redacted] were called as a witness, he would testify that he participated in the interviews set forth in Exhibits 33, 38, 42, 43, and that he prepared Exhibit 59, his report.)

The Department offered Exhibits 1-83 which were accepted into evidence. Appellants offered Exhibits A-K which were accepted into evidence. No exhibits were refused admission to the evidentiary record. (The Department's Exhibit 84, a transcript of the deposition of Deputy Ortega, was conditionally admitted but based on a September 9, 2011 letter from Appellant's counsel, that transcript was subject to a protective order and the Department withdrew Exhibit 84.) Both parties filed their respective written closing briefs on or about November 14, 2011.

This case concerns an incident which began on April 23, 2008. Deputy Ortega was a deputy assigned to the p.m. shift at the Inmate Reception Center of Men's Central Jail. [redacted]'s alleged [redacted] was an inmate at the jail, and Ms. [redacted] had called the jail repeatedly trying to get information on Mr. [redacted] At some point, she reached Deputy Ortega. The two engaged in a flirtatious conversation, and Deputy Ortega told Ms. [redacted] that he would come to her home in [redacted] after he got off work at 10:00 p.m. and "bring her something she would like." He subsequently did go there, wearing his Sheriff's Department uniform including his duty sidearm, and the two did have sexual intercourse in Ms. [redacted] bedroom. Thereafter, Deputy Ortega left. The next day, Ms. [redacted] reported to the Riverside Police Department that she had been raped by force, and the RPD investigated the allegation. The Department was notified, and Deputy Ortega was relieved of duty. Although the RPD was initially skeptical of Ms. [redacted] claim of rape, they did a thorough investigation, and the result was that the Riverside District Attorney declined to file any charges. However, the Department's Internal Affairs Bureau also investigated, and based on that investigation, on July 20, 2009, the Department notified Deputy Ortega that he was terminated.

DISCUSSION

A. THE TERMINATION LETTER

The July 20, 2009 termination letter alleges eight separate items of misconduct against Deputy Ortega, two of which have multiple subparts. The alleged misconduct includes the following allegations:

1. "That in violation of section 3-01/050.90 of the Manual of Policy and Procedures ("Manual"), Prohibited Association, on or about April 23, 2008, while on duty, you engaged in a flirtatious conversation with Ms. [redacted] who was the [redacted] of Inmate [redacted] after she telephoned the Inmate Reception Center for assistance concerning the release of Inmate [redacted] Ms. [redacted] referred to Inmate [redacted] as her [redacted] Furthermore, while talking to Ms. [redacted] you admit to reading your computer screen wherein it indicated that Ms. [redacted] relationship to Inmate [redacted] was [redacted] At the end of your shift, you then drove to Ms. [redacted] residence in [redacted] wearing your Class A uniform and wearing your duty weapon, and engaged in sexual intercourse with Ms. [redacted]

2. "That in violation of Manual section 3-01/030.05, General Behavior, and/or 3-01/000.10, Professional Conduct, and/or 3-01/030.07, Immoral Conduct, on or about April 23, 2008, you receive a telephone call from Ms. [redacted] the [redacted] of an in-custody inmate [redacted] and then arranged a date with her for that evening wherein you drove to Ms. [redacted] home while dressed in your Class A uniform and wearing your duty weapon, and then provided Ms. [redacted] with paperwork concerning Inmate [redacted] and thereafter had sexual relations with Ms. [redacted] Your actions of going to the home of an inmate's [redacted] wearing a Class A uniform and wearing your duty weapon, for the purpose of having sex, not only brought discredit upon yourself and the Sheriff's Department, but caused the Sheriff's Department to be brought into disrepute. Moreover, your actions are contrary to this Department's Core Values, Mission and Creed."

3. "That in violation of Manual section 3-01/040.70, False Statements, and 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 13, 2008, during a telephone conversation with Riverside Police Department Detective [redacted] you made false statements, including, but not limited to, "I had a problem with her at work," referring to Ms. [redacted] who filed criminal charges against you and those charges were under investigation by the Riverside Police Department."

4. "That in violation of Manual section 3-01/040.70, False Statements, and 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 14, 2008, during a Riverside Police Department criminal investigation following your contact with the victim, Ms. [redacted] you made false and/or misleading statements to police officers, including but not limited to: [21 alleged statements set forth in Exhibit 2]."

5. "That in violation of Manual section 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about March 24, 2009, you made false statements during your subject interview concerning your contact with Ms. [redacted] on April 23, 2008, including, but not limited to: [10 alleged statements set forth in Exhibit 2]."

6. "That in violation of Manual section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about June 6, 2008 you telephoned Ms. [redacted] during the criminal investigation for which you were a suspect and then secretly recorded your conversation with her which you later deleted."

7. "That in violation of Manual section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about June 6, 2008, you telephoned and spoke to the victim during the criminal investigation for which you were a suspect. While on the telephone, you made statements to the victim [Ms. [redacted] which included, but were not limited to "Stop wasting everybody's time" and words to the effect of, that you were going to "sue" her. The cumulative impact of your statements to Ms. [redacted] had the effect of scaring her and causing her to tell you she would move away."

8. "That in violation of Manual section 3-01/040.95, Confidential Information, and/or 3-01/100.45 Use of Communications Equipment, on or about April 23, 2008, you accessed Inmate [redacted] record for unofficial purposes and then provided the information to Ms. [redacted] without permission."

## B. NARRATIVE SUMMARY OF THE HEARING OFFICER'S FACTUAL FINDINGS

The testimonial evidence in this case consisted of the testimony of six witnesses: RPD Officer [redacted] RPD Detective [redacted]; a [redacted] of [redacted] Ms. [redacted] the Department's "decision maker," Chief Alexander R. Yim; and the accusing party, Ms. [redacted] (As of the time of her hearing testimony, Ms. [redacted] had [redacted] former inmate [redacted] and she stated her name as [redacted] For purposes of clarity she will be referred to herein as Ms. [redacted] her name at the time of the relevant events.)

It bears recognition that for the most part, only two witnesses have personal knowledge of the relevant events in this case: [redacted] and Deputy Cesar Ortega. All or nearly all of

the interviews that Detective [redacted] and, to a lesser extent, Officer [redacted] conducted, were recorded by digital recorder and then transcribed and offered by the Department as one of its 83 exhibits. This includes numerous telephone calls which were recorded and transcribed, including numerous calls with both Deputy Ortega and Ms. [redacted] and also calls with others who did not testify at the hearing, such as [redacted] and [redacted] As a result, this case comes down in many respects to the credibility of [redacted] the credibility of Cesar Ortega, and the facts and circumstances as shown by the statements of other witnesses and, to a lesser extent, some other exhibits.

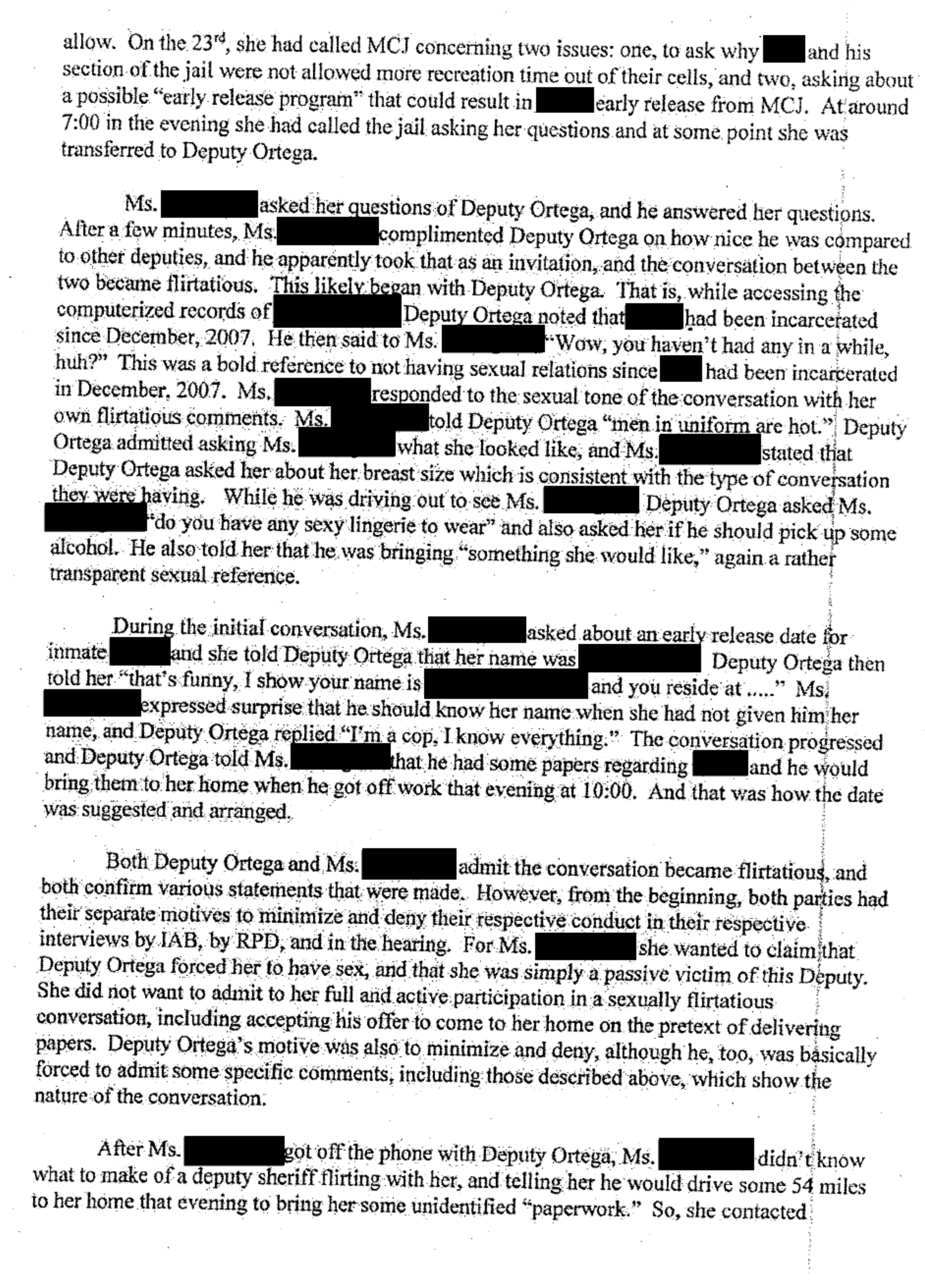
As stated above, witness credibility was an important factor in this case. The hearing officer carefully evaluated witness credibility. The hearing officer reviewed each and every document that was part of the evidentiary record, Exhibits 1-83 and A-K. Many of the exhibits consist of transcripts of multiple interviews of both Ms. [redacted] and Deputy Ortega. Through these multiple interviews, the hearing officer looked for patterns and inconsistencies, as well as evidence of deceit, evasion and manipulation. Of course, the hearing testimony of each witness was also carefully considered, including witness demeanor and attitude towards the giving of testimony. Based upon this careful evaluation, the hearing officer in general found that appellant Cesar Ortega is seriously lacking in credibility, and in fact is untrustworthy. Accusing party [redacted] also lacks credibility in many parts of her testimony.

Thus in order to make the factual determinations in this case, the hearing officer placed reliance upon facts that were either admitted or agreed to by both Deputy Ortega and Ms. [redacted] or were otherwise supported by circumstantial evidence including the limited testimony from Ms. [redacted] who was Ms. [redacted] With the foregoing in mind, what follows are the facts which the preponderance of the evidence demonstrated.

On April 23, 2008, Deputy Ortega was at the public desk at IRC at Men's Central Jail ("MCJ"). His shift was 2:00 p.m to 10:00 p.m. On that date, one [redacted] was an inmate at MCJ. [redacted] had been arrested in approximately [redacted] on a [redacted] charge, but at some point the authorities realized he had a [redacted] in Los Angeles County, and he was transferred to MCJ. There, it was recognized that he had a conviction on a charge under Penal Code § [redacted] and his scheduled release date was not until August 2008. As a [redacted] Mr. [redacted] was held in protective custody.

In November, 2007, Mr. [redacted] and Ms. [redacted] had become [redacted] Up until the arrest, they lived together in an apartment in [redacted] California, along with Ms. [redacted] Mr. [redacted] was not the [redacted] As of April 23, 2008, Mr. [redacted] and Ms. [redacted] had never been [redacted]

As of April 23, 2008, Ms. [redacted] was not working. She had worked for [redacted] but the arrest of [redacted] caused her to feel stress and she lost her job. (Its not clear if she quit or was fired.) It appears that Ms. [redacted] was lonely and bored, and one of the ways she filled her time was to make repeated calls to MCJ, seeking information on [redacted] It also appears that [redacted] frequently made collect calls to the home, several times per day as their finances would



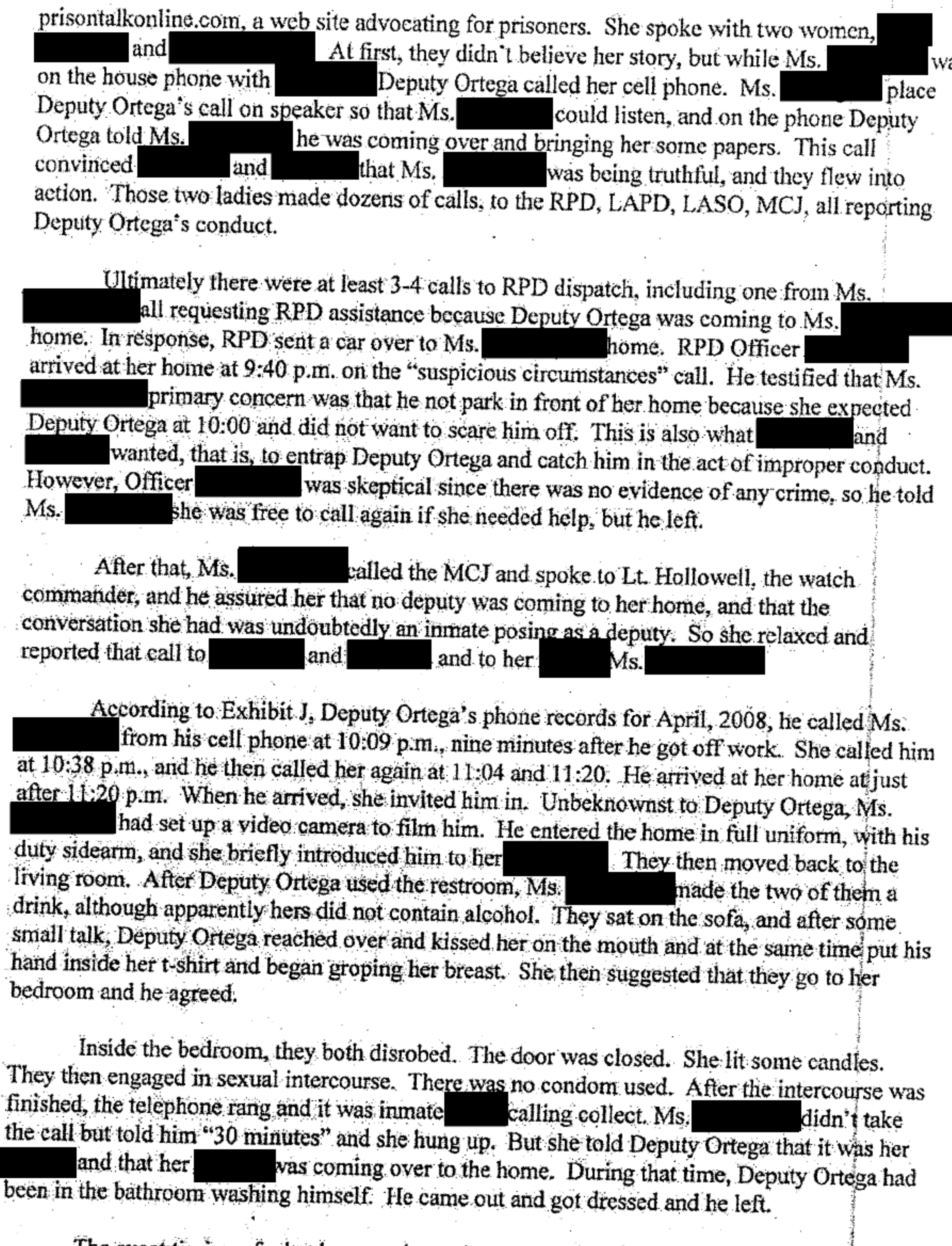
allow. On the 23rd, she had called MCJ concerning two issues: one, to ask why [redacted] and his section of the jail were not allowed more recreation time out of their cells, and two, asking about a possible "early release program" that could result in [redacted] early release from MCJ. At around 7:00 in the evening she had called the jail asking her questions and at some point she was transferred to Deputy Ortega.

Ms. [redacted] asked her questions of Deputy Ortega, and he answered her questions. After a few minutes, Ms. [redacted] complimented Deputy Ortega on how nice he was compared to other deputies, and he apparently took that as an invitation, and the conversation between the two became flirtatious. This likely began with Deputy Ortega. That is, while accessing the computerized records of [redacted] Deputy Ortega noted that [redacted] had been incarcerated since December, 2007. He then said to Ms. [redacted] "Wow, you haven't had any in a while, huh?" This was a bold reference to not having sexual relations since [redacted] had been incarcerated in December, 2007. Ms. [redacted] responded to the sexual tone of the conversation with her own flirtatious comments. Ms. [redacted] told Deputy Ortega "men in uniform are hot." Deputy Ortega admitted asking Ms. [redacted] what she looked like, and Ms. [redacted] stated that Deputy Ortega asked her about her breast size which is consistent with the type of conversation they were having. While he was driving out to see Ms. [redacted] Deputy Ortega asked Ms. [redacted] "do you have any sexy lingerie to wear" and also asked her if he should pick up some alcohol. He also told her that he was bringing "something she would like," again a rather transparent sexual reference.

During the initial conversation, Ms. [redacted] asked about an early release date for inmate [redacted] and she told Deputy Ortega that her name was [redacted] Deputy Ortega then told her "that's funny, I show your name is [redacted] and you reside at ....." Ms. [redacted] expressed surprise that he should know her name when she had not given him her name, and Deputy Ortega replied "I'm a cop, I know everything." The conversation progressed and Deputy Ortega told Ms. [redacted] that he had some papers regarding [redacted] and he would bring them to her home when he got off work that evening at 10:00. And that was how the date was suggested and arranged.

Both Deputy Ortega and Ms. [redacted] admit the conversation became flirtatious, and both confirm various statements that were made. However, from the beginning, both parties had their separate motives to minimize and deny their respective conduct in their respective interviews by IAB, by RPD, and in the hearing. For Ms. [redacted] she wanted to claim that Deputy Ortega forced her to have sex, and that she was *simply a passive victim* of this Deputy. She did not want to admit to her full and active participation in a sexually flirtatious conversation, including accepting his offer to come to her home on the pretext of delivering papers. Deputy Ortega's motive was also to minimize and deny, although he, too, was basically forced to admit some specific comments, including those described above, which show the nature of the conversation.

After Ms. [redacted] got off the phone with Deputy Ortega, Ms. [redacted] didn't know what to make of a deputy sheriff flirting with her, and telling her he would drive some 54 miles to her home that evening to bring her some unidentified "paperwork." So, she contacted



prisontalkonline.com, a web site advocating for prisoners. She spoke with two women, [redacted] and [redacted] At first, they didn't believe her story, but while Ms. [redacted] was on the house phone with [redacted] Deputy Ortega called her cell phone. Ms. [redacted] place Deputy Ortega's call on speaker so that Ms. [redacted] could listen, and on the phone Deputy Ortega told Ms. [redacted] he was coming over and bringing her some papers. This call convinced [redacted] and [redacted] that Ms. [redacted] was being truthful, and they flew into action. Those two ladies made dozens of calls, to the RPD, LAPD, LASO, MCJ, all reporting Deputy Ortega's conduct.

Ultimately there were at least 3-4 calls to RPD dispatch, including one from Ms. [redacted] all requesting RPD assistance because Deputy Ortega was coming to Ms. [redacted] home. In response, RPD sent a car over to Ms. [redacted] home. RPD Officer [redacted] arrived at her home at 9:40 p.m. on the "suspicious circumstances" call. He testified that Ms. [redacted] primary concern was that he not park in front of her home because she expected Deputy Ortega at 10:00 and did not want to scare him off. This is also what [redacted] and [redacted] wanted, that is, to entrap Deputy Ortega and catch him in the act of improper conduct. However, Officer [redacted] was skeptical since there was no evidence of any crime, so he told Ms. [redacted] she was free to call again if she needed help, but he left.

After that, Ms. [redacted] called the MCJ and spoke to Lt. Hollowell, the watch commander, and he assured her that no deputy was coming to her home, and that the conversation she had was undoubtedly an inmate posing as a deputy. So she relaxed and reported that call to [redacted] and [redacted] and to her [redacted] Ms. [redacted]

According to Exhibit J, Deputy Ortega's phone records for April, 2008, he called Ms. [redacted] from his cell phone at 10:09 p.m., nine minutes after he got off work. She called him at 10:38 p.m., and he then called her again at 11:04 and 11:20. He arrived at her home at just after 11:20 p.m. When he arrived, she invited him in. Unbeknownst to Deputy Ortega, Ms. [redacted] had set up a video camera to film him. He entered the home in full uniform, with his duty sidearm, and she briefly introduced him to her [redacted] They then moved back to the living room. After Deputy Ortega used the restroom, Ms. [redacted] made the two of them a drink, although apparently hers did not contain alcohol. They sat on the sofa, and after some small talk, Deputy Ortega reached over and kissed her on the mouth and at the same time put his hand inside her t-shirt and began groping her breast. She then suggested that they go to her bedroom and he agreed.

Inside the bedroom, they both disrobed. The door was closed. She lit some candles. They then engaged in sexual intercourse. There was no condom used. After the intercourse was finished, the telephone rang and it was inmate [redacted] calling collect. Ms. [redacted] didn't take the call but told him "30 minutes" and she hung up. But she told Deputy Ortega that it was her [redacted] and that her [redacted] was coming over to the home. During that time, Deputy Ortega had been in the bathroom washing himself. He came out and got dressed and he left.

The exact timing of what happened next is not important to this case, so the actions will be described in summary form, without trying to be completely accurate in detail. The next day,

Ms. [redacted] notified [redacted] and [redacted] what had happened the night before, and then she (Ms. [redacted] went on a field trip with her [redacted] However, the two ladies insisted that Ms. [redacted] go to the hospital and get checked. The RPD was called, and a rape was reported. Likewise, the Department's IAB was called and a rape was reported. Initially, it was [redacted] and [redacted] not Ms. [redacted] who were making the push to allege criminal charges against Deputy Ortega. Ms. [redacted] was ambivalent and but for the intervention by [redacted] and [redacted] it is likely she would not have reported the incident to police or to the Department. Ultimately, RPD conducted multiple interviews with Ms. [redacted] all of which were tape recorded and the tapes transcribed and accepted into evidence at the hearing.

The RPD assigned Detectives [redacted] and [redacted] to investigate the alleged rape of Ms. [redacted] On May 9, 2008, Detective [redacted] called Deputy Ortega and that was the first contact by RPD with Deputy Ortega. (However, when Deputy Ortega had returned to duty on or about 4/28/08, he was relieved by his Captain and told he was under criminal investigation on a sexual assault charge.) On May 14, 2008, Deputy Ortega met with Detectives [redacted] and [redacted] and gave them a voluntary statement. During this interview, he at first read from a prepared statement. He told the two detectives that he had met a fat girl in the lobby at IRC and had a problem with her. She told him he was nice and she asked him out, but he declined because he was [redacted] She then got angry and stated that he would regret turning her down. So that was Deputy Ortega's explanation of why he would be falsely accused of rape by a woman in [redacted] However, after the detectives told him that they had him on videotape at Ms. [redacted] home, he revised his story and gave a new version. He admitted going to the home and having consensual sexual intercourse.

In the view of this hearing officer, the sexual activity in this case was indeed consensual. This finding is based on a preponderance of the evidence. The evidence includes the following. First, Ms. [redacted] was an equal participant with Deputy Ortega in the sexual flirting between the two of them. She told him men in uniform were hot, she described herself to him including her breast size, and she allowed his highly personal questions such as how long since she had had sex, and did she plan on wearing some sexy lingerie for him. The sexual overtones of their conversation were plain and evident. Ms. [redacted] admitted that when she heard Deputy Ortega say "I got something you are going to like" that she thought he was referring to what was between his legs, not to some purported paperwork. Ms. [redacted] admitted openly discussing with Ms. [redacted] the possibility of a sexual encounter between Ms. [redacted] and Deputy Ortega.

Also, when Deputy Ortega arrived at the home, he was recorded on video and audio tape. The audio suggests that Ms. [redacted] was excited and happy to be with Deputy Ortega. The audio records a very brief introduction to Ms. [redacted] and then they exit the [redacted] room and Deputy Ortega says "So what do you think, is everything cool?" Ms. [redacted] response was "Yeah! Hell yeah! Yeah you look like the rest of 'em. Let me turn my light off. [whispering] Oh man." Exhibit 64, pg. 2. Rather than turning her light off, Ms. [redacted] was turning her camera off, but her enthusiastic response to Deputy Ortega's inquiry shows that she was happy to have him in her home, alone, with the [redacted]

The paperwork which Deputy Ortega brought to Ms. [redacted] was a simple printout from the jail's records, information that was already available on the public web site. This shows that Deputy Ortega's actual motive was to use the paperwork as a flimsy pretext to come to the home for a sexual encounter, not to transmit information and not to counsel Ms. [redacted] minor son. The sexual encounter was voluntary and consensual for both parties.

**C. ANALYSIS OF EVIDENCE: ARE THE ALLEGATIONS OF THE TERMINATION LETTER TRUE?**

1. The Department's allegation number 1 states:

> "That in violation of section 3-01/050.90 of the Manual of Policy and Procedures ("Manual"), Prohibited Association, on or about April 23, 2008, while on duty, you engaged in a flirtatious conversation with ms. [redacted] who was the romantic companion of Inmate [redacted] after she telephoned the Inmate Reception Center for assistance concerning the release of Inmate [redacted] Ms. [redacted] referred to Inmate [redacted] as her [redacted] and/or [redacted] Furthermore, while talking to Ms. [redacted] you admit to reading your computer screen wherein it indicated that Ms. [redacted] relationship to Inmate [redacted] was [redacted]. At the end of your shift, you then drove to Ms. [redacted] residence in Riverside, wearing your Class A uniform and wearing your duty weapon, and engaged in sexual intercourse with Ms. [redacted]

Finding on Allegation 1: **TRUE.**

Deputy Ortega strongly asserts that Ms. [redacted] told him that [redacted] was her [redacted] and that he had no idea that Ms. [redacted] had an ongoing [redacted] with [redacted] He claims that when she called him the first time, that she told him she needed to know his release date to serve him with some child custody papers. The Department's rule on prohibited association specifies that deputies may not knowingly have any type of social relationship with the spouse or romantic partner of an inmate. However, there is no prohibition against having a consensual sexual relationship with a person that one meets on the job. Deputy Ortega claims that as an [redacted] Ms. [redacted] was no longer connected in a relationship with inmate [redacted] and therefore his sexual liaison with her did not violate Department policy.

In support of his contention, Deputy Ortega cites Ms. [redacted] very first telephonic interview with IAB, which interview was given on 4/24/08, the day following the incident. In that interview, Ms. [redacted] told the IAB investigator that she told Deputy Ortega on their first telephone call that she needed to serve [redacted] with child support paperwork and that he probably would not be living with her when he got out. (Exhibit 23, pg. 7.) Deputy Ortega cites this interview as evidence that in fact, Ms. [redacted] told him that [redacted] was her [redacted] and that he had no way of knowing otherwise.

The Department contends that Deputy Ortega knew that Ms. [redacted] was the [redacted] of inmate [redacted] and therefore he knew that he was in violation of the prohibited association policy

when he made a date with her. The Department cites Exhibit 70, a two page print out from the Department's computerized records of inmate [redacted] and those records show [redacted] listed as Mr. [redacted] emergency contact, and [redacted] The emergency contact record showing [redacted] as fiance of [redacted] is, according to Chief Yim, the only mention of Ms. [redacted] name in inmate [redacted] records. The Department contends that Deputy Ortega saw this record and he therefore knew that Ms. [redacted] was the [redacted] and not [redacted] of inmate [redacted]

The evidence supports a finding that Deputy Ortega absolutely knew that he was making a date with [redacted] the [redacted] of inmate [redacted] Ms. [redacted] was repeatedly interviewed, and she has consistently repeated her account of initially telling Deputy Ortega her name was [redacted] Deputy Ortega corrected her and said "I show your name is [redacted] See, Exhibit 23, pg. 2 (IAB interview on 4/24/08); Exhibit 24, pg. 4 (RPD interview on 4/24/08); Exhibit 28, pg. 2 (Internal Crim. Inv. Bureau interview on 4/44/08); Exhibit 33, pg. 8 (RPD interview on 4/25/08); Exhibit 58, pg. 3, 5-6 (IAB interview on 4/10/09). The fact that Ms. [redacted] repeated this account on multiple occasions to multiple interviewers gives her account credibility.

Perhaps most tellingly, after her initial phone conversation with Deputy Ortega, Ms. [redacted] was confused about how to interpret the events including a deputy sheriff who made an extremely bold sexual come-on to her, and who promised he would come to her home to deliver "paperwork." Therefore immediately after ending her first call with Deputy Ortega, Ms. [redacted] sent an e-mail to [redacted] at the web site prisontalkonline.com. Ms. [redacted] was subsequently interviewed by both RPD and IAB. On 5/23/08, Ms. Albanese was interviewed by RPD, and during that telephonic interview, she read the content of the e-mail that Ms. [redacted] had sent to prisontalkonline.com. The e-mail was sent on 4/23/08 at 7:11 p.m. In that e-mail, Ms. [redacted] told Ms. [redacted] about her "weird" conversation with Deputy Ortega, part of which included Ms. [redacted] describing giving Deputy Ortega a false name, and him knowing her real name. Exhibit 45, pg. 8. Thus in Ms. [redacted] very first communication after speaking with Deputy Ortega, she described the fact that *he knew her real name without her telling it to him.* That communication was at 7:11 p.m., which was well before any of the night's drama, and well before any motive to fabricate had arisen. Based on these facts, it is the hearing officer's finding that Deputy Ortega knew that Ms. [redacted] was the fiance of inmate [redacted] when he made the date to go to her home.

2. The Department's Allegation No. 2 states:

> "That in violation of Manual section 3-01/030.05, General Behavior, and/or 3-01/000.10, Professional Conduct, and/or 3-01/030.07, Immoral Conduct, on or about April 23, 2008, you receive a telephone call from Ms. [redacted] the [redacted] of an in-custody inmate [redacted] and then arranged a date with her for that evening wherein you drove to Ms [redacted] home while dressed in your Class A uniform and wearing your duty weapon, and then provided Ms. [redacted] with paperwork concerning Inmate [redacted] and thereafter had sexual relations with Ms. [redacted] Your actions of going to the home of an

inmate's [redacted] wearing a Class A uniform and wearing your duty weapon, for the purpose of having sex, not only brought discredit upon yourself and the Sheriff's Department, but caused the Sheriff's Department to be brought into disrepute. Moreover, your actions are contrary to this Department's Core Values, Mission and Creed."

Finding on Allegation 2: **TRUE.**

Allegation no. 2 alleges that in acting as alleged, Deputy Ortega violated the Department's Manual provisions on general behavior, professional conduct and immoral conduct. Allegation No. 2 differs from Allegation No. 1 only in regard to the Manual sections alleged to have been violated, not the facts which allegedly constitute the violation. Therefore the analysis of the evidence with respect to allegation no. 1 is also applicable to this allegation no. 2.

There was, in fact, significant evidence in the record that Deputy Ortega acted highly unprofessionally and immorally. That is, virtually every person who was informed of what Deputy Ortega was either intending to do or what he did, expressed shock, disbelief and disapproval. In other words, the unprofessionalism of his actions were apparent even to individuals who do not have professional training.

For example, Ms. [redacted] felt Deputy Ortega's sexual flirtation with her was "weird" and it caused her to send an immediate e-mail to [redacted] and [redacted] Both of them thought the idea of a deputy sheriff flirting with an inmate's [redacted] and then actually driving over 50 miles to her home to supposedly deliver paperwork on her [redacted] release, was absurd and unbelievable. In fact, they didn't believe Ms. [redacted] until they heard it with their own ears while Ms. [redacted] had Deputy Ortega on speaker phone. His conduct was so shocking that those women immediately called the Department's Internal Affairs, as well as the RPD. Ms. [redacted] who is Ms. [redacted] friend and neighbor, also immediately recognized that Deputy Ortega's conduct was highly unprofessional.

To summarize, virtually every person connected with this case, with the sole exception of Deputy Ortega, views his conduct as an extreme violation of the standards of professionalism, general behavior and morality. There is abundant evidence to support the Department's allegation and therefore the finding of the hearing officer is the allegation is true.

3. The Department's Allegation No. 3 states:

"That in violation of Manual section 3-01/040.70, False Statements, and 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 13, 2008, during a telephone conversation with Riverside Police Department Detective [redacted] you made false statements, including, but not limited to, "I had a problem with her at work," referring to Ms. [redacted] who filed criminal charges against you and those charges were under investigation by the Riverside Police Department."

Finding on Allegation 3: **TRUE.**

Exhibit 35 is the transcript of a telephone conversation between Detective [redacted] and Deputy Ortega. This was an initial call by which Deputy Ortega was still discussing whether or not he was willing to give a voluntary statement to RPD on the sexual assault allegations against him. The call occurred on May 13, 2008.

Here is what Deputy Ortega knew on May 13, 2008 when he spoke to Detective [redacted] He knew that on April 23, 2008, he went to Ms. [redacted] home in [redacted] and had sexual intercourse with her. On or about April 28, 2008, Deputy Ortega returned to work and was informed by his Captain that he was relieved of duty because there was a criminal investigation regarding sexual assault. On May 9, 2008, Deputy Ortega received a call from Detective [redacted] who told him "The reason I'm calling is regarding the report that this gal filed in Riverside naming you as a suspect." Deputy Ortega asked what are the allegations and [redacted] told him "It's a sexual assault allegation."

So as of May 13, 2008, Deputy Ortega knew that [redacted] had filed a criminal complaint accusing him of sexual assault. He knew that his employer knew about it. In the face of this knowledge, he decided the way out of the mess was to fabricate a story to Detective [redacted] So he told her,

> "I mean, if this is like the person I'm thinking that's like really overweight and she's . . . that's what I'm thinking. I'm not sure. But it kind of doesn't make sense for her to be saying stuff like that if –
>
> –if she's – you know, but it just sounds fishy, you know.
>
> I mean, has that ever happened? Has somebody – because, you know, I had a problem with her at work, and she kind of just, you know – I guess it's like a grudge or something. I'm not sure." Exhibit 35, pg. 3.

Deputy Ortega told Detective [redacted] that he had had a problem with [redacted] at work, when that clearly was not the case. He did so hoping and intending to manipulate Detective [redacted] into believing that he knew of no reason whatsoever that he would be accused of sexual assault by a woman in Riverside, but suggesting it "might" be related to a problem he had at work. He was clearly trying to deceive Detective [redacted] Therefore the finding is that Allegation no. 3 is true.

4. The Department's Allegation No. 4 states:

> "That in violation of Manual section 3-01/040.70, False Statements, and 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 14, 2008, during a Riverside Police Department criminal investigation following

your contact with the victim, Ms. [redacted] you made false and/or misleading statements to police officers, including but not limited to: [21 alleged statements set forth in Exhibit 2]."

Finding on Allegation 4: **TRUE.**

Deputy Ortega has admitted providing the initial false story to Detectives [redacted] and [redacted] The 21 alleged false statements relate mostly to the false account which Deputy Ortega admits he provided to RPD during his interview on May 14, 2008. See Exhibit 38.

5. The Department's Allegation No. 5 states:

"That in violation of Manual section 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about March 24, 2009, you made false statements during your subject interview concerning your contact with Ms. [redacted] on April 23, 2008, including, but not limited to: [10 alleged statements set forth in Exhibit 2]."

Finding on Allegation No. 5: **TRUE**

The Department cites 10 alleged false statements made by Deputy Ortega during his IAB interview. Of those, the hearing officer finds there is insufficient evidence with respect to two of the statements, and that the remaining 8 statements were made and were false. The false statements include the statements regarding Ms. [redacted] being the [redacted] of inmate Jones (items a, c, and d).

Deputy Ortega claims that [redacted] form to the home only because Ms. [redacted] asked him to wear it to impress her [redacted] who was getting into trouble. Deputy Ortega testified during the Commission hearing that counseling Ms. [redacted] was the primary reason he went to [redacted] that evening. The hearing officer finds that Deputy Ortega's testimony was false. According to Deputy Ortega, he worked his entire 2 years as a deputy sheriff in the jail, and he never wore his uniform in public. The hearing officer believes that Deputy Ortega wore his uniform because it gave him a sense of power that he wanted when he met Ms. [redacted] to help him seduce her. Deputy Ortega called Ms. [redacted] by cell phone from his car while driving to her home, and asked her to wear sexy lingerie and asked about the availability of alcohol. Lingerie and alcohol are instruments of sexual seduction, not the moral counseling of a [redacted] There is no merit to Deputy Ortega's claim that he wanted to help Ms. [redacted] Therefore his statements to IAB were false.

Ms. [redacted] did tell Deputy Ortega that she wanted information on [redacted] release for reasons relating to child support, so allegation (b) was not a false statement. And, there was insufficient evidence presented at the hearing to show that Deputy Ortega told Ms. [redacted] that he could delete the [redacted] comment in [redacted] Department record, so allegation (i) cannot be sustained.

6. The Department's Allegation No. 6 states:

"That in violation of Manual section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about June 6, 2008 you telephoned Ms. [redacted] during the criminal investigation for which you were a suspect and then secretly recorded your conversation with her which you later deleted."

Finding on Allegation No. 6: **TRUE**

Deputy Ortega admitted making the call to Ms. [redacted] and recording it and then deleting it. He told Detective [redacted] that he had done so. He also admitted to her what he had told Ms. [redacted] Exhibit 47, pg 2.

7. The Department's Allegation No. 7 states:

"That in violation of Manual section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about June 6, 2008, you telephoned and spoke to the victim during the criminal investigation for which you were a suspect. While on the telephone, you made statements to the victim [Ms. [redacted] which included, but were not limited to "Stop wasting everybody's time" and words to the effect of, that you were going to "sue" her. The cumulative impact of your statements to Ms. [redacted] had the effect of scaring her and causing her to tell you she would move away."

Finding on Allegation No. 7: **TRUE**

Deputy Ortega admitted making the call to Ms. [redacted] and recording it and then deleting it. He told Detective [redacted] that he had done so. He also admitted to her what he had told Ms. [redacted] Exhibit 47, pg. 2.

8. The Department's Allegation No. 8 states:

"That in violation of Manual section 3-01/040.95, Confidential Information, and/or 3-01/100.45 Use of Communications Equipment, on or about April 23, 2008, you accessed Inmate [redacted] record for unofficial purposes and then provided the information to Ms. [redacted] without permission."

Finding on Allegation No. 8: **TRUE**

Deputy Ortega used the computer system at MCJ to obtain personal information about Ms. [redacted] for the purpose of arranging a date with her. He then printed the information out from the computer and used that printed information as a pretext to come to Ms. [redacted] home for the purpose of having a sexual encounter with her. This was not an authorized or intended use of the computer and therefore Deputy Ortega violated the Department's Manual.

## D. IS THE PENALTY OF TERMINATION APPROPRIATE?

In cases of misconduct by public employees, the harm to the public service is the overriding factor to be weighed in evaluating the appropriate discipline. Here, a relatively new deputy sheriff took it upon himself to set up a date and then have sex with the [redacted] of an inmate. This action was both reckless and foolhardy. Deputy Ortega exposed himself to incredible danger. He could have walked into an ambush set up by an inmate or the inmate's confederates and/or family. As it was, Deputy Ortega was "set up" because both RPD and IAB had been called before Deputy Ortega even arrived at Ms. [redacted] home. Yet, Deputy Ortega was oblivious to all that danger.

More importantly, Deputy Ortega came within inches of being charged criminally with rape or rape under color of authority. Detective [redacted] told Deputy Ortega during his in person interview that he felt Deputy Ortega was very fortunate that Alison [redacted] was very honest. This hearing officer agrees. Had [redacted] lied even a little bit and accused Deputy Ortega of making even minimal threats or using minimal intimidation or force during their sexual encounter, it is highly likely Deputy Ortega would have been criminally charged. Given the egregious bad judgment Deputy Ortega demonstrated in going to the home in the first place, it is easy to imagine a jury convicting him of a serious crime.

Overall, Deputy Ortega demonstrated extremely poor judgment and weak character. When he was questioned by RPD, he failed to recognize that he had been caught red-handed, and instead he tried to lie his way out of his predicament. Deputy Ortega argues in mitigation that he immediately came clean a mere 5 minutes after his initial lie failed to convince the RPD detectives. But, what really happened is that during those five minutes, he was extremely evasive and tried to manipulate the detectives. The only reason Deputy Ortega finally admitted going to Ms. [redacted] home is he was told point blank that they had him on video tape. Even then, he admitted at the Commission hearing that if he had not been caught on video tape, he would not have changed his story.

Deputy Ortega continues to view himself as a victim. In his false stories he regularly tends to portray himself as the persecuted "good guy." For example, in his first false story given to RPD he portrayed himself as the good, clean [redacted]' unwilling to [redacted] who was being punished and victimized for his moral stance; in his account given to IAB, he claimed he told Ms. Kelleghan he "didn't associate with people who do drugs," and again suggested that his moral stance angered her and triggered her retaliation against him.

Deputy Ortega's inability to recognize his own misconduct and take responsibility for it presents a significant danger to the public service. The danger is that his capacity for self delusion will continue and repeat itself. His instinctive reaction when caught or questioned seems to be to lie and deny and create false stories. These traits make him unfit to continue in the public service. Therefore it is the hearing officer's finding that the discipline in this case was appropriate.

## FINDINGS OF FACT

1. On April 23, 2008, at approximately 7:00 p.m., Ms. [redacted] of inmate [redacted] called the Men's Central Jail and was routed to Deputy Cesar Ortega who was at the public counter at Inmate Reception Center.

2. While Ms. [redacted] was on the phone speaking with Deputy Ortega, he accessed the Department's records relating to inmate [redacted] and he saw that [redacted] the woman he was speaking with, was the [redacted] of inmate [redacted]

3. During the call with Ms. [redacted] Deputy Ortega began flirting with Ms. [redacted] by making sexually provocative and suggestive comments. She responded with her own sexually suggestive comments.

4. The initial call between Ms. [redacted] and Deputy Ortega ended with Deputy Ortega promising Ms. [redacted] that he would personally deliver some documents to her home that evening after he got off work at 10:00 p.m. However, Deputy Ortega's promise of documents was a pretext for the true purpose of the visit which was a sexual encounter.

5. After Deputy Ortega finished his shift at 10:00 p.m. on April 23, 2008, he drove his personal car to Ms. [redacted] apartment located in [redacted] arriving there at approximately 11:20 p.m. On the way to her home, he called her on his cell phone and asked her if she would wear some sexy lingerie for him, and also asked if he should pick up some alcohol for the two of them.

6. When Deputy Ortega arrived at the home, he got out of the car in full uniform with his duty weapon, and he entered Ms. [redacted] home. Ms. [redacted] was at the door when he arrived, and she invited him into the home.

7. While in Ms. [redacted] home, Deputy Ortega and Ms. [redacted] engaged in a consensual sexual encounter including consensual sexual intercourse.

8. Both before the sexual encounter, and after it, Ms. [redacted] had been in contact with Ms. [redacted] and Ms. [redacted] who were two women affiliated with a prisoner support group. When Ms. [redacted] and Ms. [redacted] learned on April 24, 2008 that Deputy Ortega had come to the home and had sexual intercourse with Ms. [redacted] they urged her to go to the hospital for testing and they also reported a sexual assault to the Riverside Police Department.

9. Although she was initially ambivalent, Ms. [redacted] reported to the Riverside Police Department that she had been sexually assaulted by Deputy Ortega. However, after extensive interviews she did not tell the police that she had been threatened or forced to have sex with Deputy Ortega, and the Riverside District Attorney declined to file any criminal charges against Deputy Ortega.

10. During the course of the investigation by Riverside Police Department, Deputy Ortega spoke to Detective [redacted] on May 13, 2008. During that call, Deputy Ortega falsely suggested that Ms. [redacted] was a woman he had a problem with at work.

11. When Deputy Ortega was interviewed in person by Riverside Police, he brought a prepared statement which he read, which contained a completely false and manufactured story, telling Detective [redacted] that he knew Ms. [redacted] as a woman he had a problem with at work, and denying any other contact with her. He only gave up on that story when he was informed he was on video tape at Ms. [redacted] home.

12. When Deputy Ortega was interviewed by the Department's IAB, and in his Commission hearing testimony, Deputy Ortega provided false and misleading statements regarding his sexual encounter with Ms. [redacted] such as claiming he thought Ms. [redacted] was the [redacted] of inmate [redacted] and that his intent in going to Ms. [redacted] home was to speak to her [redacted]

13. On or about June 6, 2008, Deputy Ortega called Ms. [redacted] and recorded the call. The purpose of the call was to obtain some useful admissions by Ms. [redacted] that the sexual encounter was consensual, but Deputy Ortega also made intimidating statements such as telling her to stop wasting everybody's time, and threatening to sue her. He then deleted the recording.

14. On April 23, 2008 Deputy Ortega brought some records he had obtained from the Department's computer regarding inmate [redacted] to Ms. [redacted] and his purpose in doing so was to provide a pretext to come to her home. The actual purpose of going to the home was to have a sexual encounter.

15. At no time has Deputy Ortega accepted responsibility for his conduct. He continues to minimize his conduct, deny his conduct, and he continues to view himself as a victim of others.

## CONCLUSIONS OF LAW

1. Deputy Ortega's conduct on April 23, 2008, including his sexually flirtatious telephone call with [redacted] who he knew was the [redacted] of inmate [redacted] his arranging a date to come over to Ms. [redacted] home in [redacted] by promising to give her information relating to inmate [redacted] and his travel to Ms. [redacted] home where he engaged in sexual intercourse with her, violated the Department's Manual of Policy and Procedures ("Manual"), Sections 3-01/050.90, 3-01/030.05, 3-01/000.10, and 3-01/030.07.

2. Deputy Ortega's telephone call with Detective [redacted] on May 13, 2008 wherein he suggested that he had a problem with Ms. [redacted] at work, violated the Department's Manual, Section 3-01/040.70 and 3-01/040.76.

3. Deputy Ortega's in person interview with Detectives [redacted] and [redacted] on May 14, 2008 wherein he gave a prepared statement claiming that he only knew Ms. [redacted] as a woman he had a problem with at work (and other statements) violated the Department's Manual, Section 3-01/040.70 and 3-01/040.76.

4. Deputy Ortega's false statements during his March 24, 2009 IAB interview violated the Department's Manual, Section 3-01/040.75.

5. Deputy Ortega's call to Ms. [redacted] on June 6, 2008 violated the Department's Manual, Section 3-01/040.76.

6. Deputy Ortega's use of inmate [redacted] records to facilitate a prohibited sexual encounter with [redacted] fiance violated the Department's Manual, Sections 3-01/040.95 and 3-01/100.45.

## RECOMMENDATION TO COMMISSION

The hearing officer respectfully recommends that the Commission adopt the findings of fact and conclusions of law, and sustain the termination of Deputy Ortega.

Dated: January 25, 2012

Respectfully Submitted,

Joseph P. Scully, Hearing Officer



LEROY D. BACA, SHERIFF

**County of Los Angeles**
**Sheriff's Department Headquarters**
**4700 Ramona Boulevard**
**Monterey Park, California 91754-2169**



July 20, 2009

Deputy Cesar Ortega, #[redacted]

Dear Deputy Ortega:

On June 25, 2009, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2219241. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, your Division Chief determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on July 16, 2009.

An investigation under File Number IAB 2219241, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Section 3-01/050.90, Prohibited Association, on or about April 23, 2008, while on duty, you engaged in flirtatious conversation with Ms. [redacted] who was the [redacted] of Inmate [redacted] after she telephoned the Inmate Reception Center for assistance concerning the release of Inmate [redacted] Ms. [redacted] referred to Inmate [redacted] as her [redacted] Furthermore, while talking to Ms. [redacted] you admit to reading your computer screen wherein it indicated that Ms. [redacted] relationship to Inmate [redacted] was [redacted] At the end of your shift, you then drove to Ms. [redacted] residence in [redacted], wearing your Class A uniform and wearing your duty weapon, and engaged in sexual intercourse with Ms. [redacted]

2. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/000.10, Professional Conduct; and/or 3-01/030.07, Immoral Conduct, on or about April 23, 2008, you received a telephone call from Ms. [redacted] the romantic companion of an in-custody inmate [[redacted] and then arranged a date with her for that evening wherein you drove to Ms. [redacted] home while dressed in your Class A uniform and wearing your duty weapon, and then provided Ms. [redacted] with paperwork concerning Inmate [redacted] and thereafter had sexual relations with Ms. [redacted] Your actions of going to the home of an inmate's romantic companion wearing a Class A uniform and wearing your duty weapon, for the purpose of having sex, not only brought discredit upon yourself and the Sheriff's Department, but caused the Sheriff's Department to be brought into disrepute. Moreover, your actions are contrary to this Department's Core Values, Mission and Creed.

3. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 13, 2008, during a telephone conversation with Riverside Police Department Detective Byerly, you made false statements, including, but not limited to, "I had a problem with her at work," referring to Ms. [redacted] who filed criminal charges against you and those charges were under investigation by the Riverside Police Department.

4. That in violation of Manual of Policy and Procedures Sections 3-01/040.70, False Statements and/or 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about May 14, 2008, during a Riverside Police Department criminal investigation following your contact with the victim, Ms. [redacted] you made false and/or misleading statements to police officers, including but not limited to:

    a) "There was an incident at work that I was working the public lobby and there was a person that showed up to the window," and/or;

    b) "This is basically what I think is related to this case because it's the only type of threat that I got about, you know, about my job," and/or;

c) "While working the lobby, a Caucasian woman between the ages of 25 to 30 years of age, about 5'7", brown shoulder length hair, blue eyes, weighing about 250, 270, around there, approached my window. She wanted to know the release date of her [redacted], and if I could give her this release date printed, so that she could take it to the Child Support Services," and/or;

d) "So after that I – I printed out a couple copies just to stating, you know, his – his – his release date, and I also said you know, 'Hey, do you know what his charge was?' And she said his charge was rape. So she's like, 'But he didn't do it. It was just somebody else got back at him because he owed that person money.' So it was just kind of like a joke to her. I don't know what it was," and/or;

e) "So anyways, I gave her these two papers and, you know, just she's kind of telling me it was for child support services and stuff like that. I'm saying, okay. So I ended up, you know, giving her the information. And she asked me – she's like, 'Well, you're one of the nicest deputies that I've ever encountered.' And I said, 'Oh,' you know, 'thank you.' And she's like, well – she's like, 'Is there any way we could go out sometime,' you know 'and hang out?' And I said, 'Well, ma'am, you know, I'm sorry. [redacted] And she's like, 'Well, here's my number just in case,' and she puts it in the window," and/or;

f) "So, I just kind of tossed it away, I was, like, 'you know what, ma'am?' Like I said, 'I'm not,' you know, 'it's not gonna happen.' You know, [redacted] It's not gonna go anywhere.' And she's, like, she started getting a little upset and she's, like, 'well, you know, we'll have fun.' She kind of kept going on with this. And I said 'Ma'am, can you please leave or I'll have you escorted by security.' So she said – she's, like – well, she kind of got upset and told me, well this is – she told me – I wrote it here – she said – she wanted to know my name, and/or;

g) "And she said, 'Well, I'm sick of getting rejected.' She's, like, 'You're gonna regret this,' and she just stormed away," and/or;

h) "That was the last time I – first time I seen her, I never had contact with her, and the last time I seen her and had contact with her that day. That was on the 23rd of April...," and/or;

i) "And the number, actual number on her – on the – the paper, it just said – it said [redacted] and it was a [redacted] area code. I don't remember the rest of the number," and/or;

j) In response to when she was there, "It was later on in the afternoon around, let's see, I'd like to say, around 2000 to 2200, around that time," and/or;

k) "So, like I said, that was the only type of threat I ever had, you know, ever working there. So I figured, you know, I started when they called me in that day, I – I just started jotting down notes and what I remember, you know, who this person was that gave me that threat...," and/or;

l) "She was by herself or had a [redacted] I don't remember if she had a [redacted] unning around I think," and/or;

m) "She just asked me out a couple times and then that's when she, you know, left her number and I said, you know, I told her. You know, obviously she got upset. Maybe she had a couple more instances, you know, asked other deputies before. Who knows," and/or;

n) That you did not see or speak to her at any time other than on the 23rd between 2000 and 2200 hours, and/or;

o) "I mean, obviously, she said 'This is the last time I got – this is the last time I'm gonna get rejected.' Obviously, she might have asked a lot of people out before and they said 'no,' or just, you know, because of her appearance, I'm not sure. But, obviously, she took it out on me, and now I'm pretty much, you know, the victim here..," and/or;

p) "Well, she's, like, 'well, let's,' you know 'if you want to meet at my house we can do that,' and/or;

q) That you stayed at the home of the victim of the investigation until 0200 hours, and/or;

r) When you initially stated you did not have your weapon, that is was in your work locker, and/or;

s) That when you arrived at the victim's residence, you did not tell a witness that you were at the location to serve a warrant, and/or;

t) When you stated that during a subsequent telephone call on April 25th, she [Ms. [redacted] made reference to her [redacted] and/or;

u) When you told Ms. [redacted] prior to leaving her residence on or about April 23d, "I told her she was a nice person. I said 'yeah, you're a cool girl.' Because after she told me, 'I don't care if you're [redacted] I said, 'well, you know, you're a nice person,' I said, 'but you live pretty far,' you know. And that's it. She just said 'All right, well,' you know, 'Nice to meet you,' and I never really told her 'Hey, I'll come back here or I'll see you,' or something like that. You know, I was just – I wasn't really intending on maybe – because she lives far, you know. It's not to have a relationship, you know, a friendship it's just too far."

5. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements During an Internal Investigation, on or about March 24, 2009, you made false statements during your subject interview concerning your contact with Ms. [redacted] on April 23, 2008, including, but not limited to:

a) she "wanted...information on what she said was her [redacted]" and/or;

b) "she told me she wanted information on his release date so she could serve him for child support paperwork," and/or;

c) Stating in reference to the Complainant's [redacted]...obviously thinking that it was her [redacted] she had no ties to an inmate or – which I thought at the time...," and/or;

d) In response to a question on your understanding of the prohibited association policy, stating "my impression on the whole thing was that she had not talked to this man, and

that's why she wanted to know his release date. If she was talking to him on the phone or had a relationship, she would have already known his release date. Why would she call me? So I figured well, she hasn't talked to this guy, there is no ties. She said he was an [redacted] I figured hey, it's okay. Granted, she was – if she would have told me that it was her [redacted] I would have never, ever went out with her. Or even had a conversation, after that, the initial conversation as far as his release date, or information," and/or;

e) that she asked me if...I could bring my uniform because her son was, uh, in some type of trouble and, uh, she wanted me to talk to him. And she figured she would, you know, she would, uh, she figured he would, you know, listen to me if I had my uniform on. So I just, I mean I figured it was kind of odd, but, uh, she ended — I ended up, you know, after work I, uh, I remembered I had a spare uniform in my truck, so I, uh, got dressed, you know, my regular civilian clothes, drove down there..." and/or;

f) that you spoke to the Complainant's [redacted] about getting into trouble, and/or;

g) "I asked her why her [redacted] was in jail. 'Cause I really didn't see what information was on it. And she said he was, uh, he said – she said that he owed money to this woman and this woman, uhm, accused him of rape, so – she told me that. And I said okay, I said, 'Well, how do you know this woman?' 'How do you guys know this woman?' And she said, 'Oh, we all used to do drugs together.' So at that time when she told me that, I kind of figured you know what, I really don't associate with these kind of people that do drugs, so I just wanted to get out of there, I put on my clothes." As she was walking me out, I asked her, I said, 'Look, uh, I don't associate with people that do drugs.' I said, 'I've never done 'em, you know, I just – I don't associate, and plus, you're not my type', you know. I said she kind of gave a wrong description of herself. I told her, 'I'm not gonna come back here anymore,' I said, 'I'm not – I'm not gonna come back.' So she got upset, kind of huffing and puffing. She didn't say much, but she turned around and walked away. Um, at that time, I just got in my car and, uh, left without any further

incident. And that's the honest truth. I mean to my recollection," and/or;

h) that Ms. [redacted] told you over the phone that "she was, single, she had, you know, [redacted], she had no ties, she didn't know when he was getting out or anything like that," and/or;

i) that you did not tell Ms. [redacted] that you could delete the [redacted] comment from the computer, and/or;

j) that the victim [Ms. [redacted] never asked you about an early release date.

6. That in violation of Manual of Policy and Procedures Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about June 6, 2008, you telephoned Ms. [redacted] during the criminal investigation for which you were a suspect and then secretly recorded your conversation with her which you later deleted.

7. That in violation of Manual of Policy and Procedures Section 3-01/040.76, Obstructing an Investigation/Influencing a Witness, on or about June 6, 2008, you telephoned and spoke to the victim during the criminal investigation for which you were a suspect. While on the telephone, you made statements to the victim [Ms. [redacted] which included, but were not limited to "Stop wasting everybody's time" and words to the effect of, that you were going to "sue" her. The cumulative impact of your statements to Ms. [redacted] had the effect of scaring her and causing her to tell you she would move away.

8. That in violation of Manual of Policy and Procedures Sections 3-01/040.95, Confidential Information and/or 3-01/100.45, Use of Communications Equipment, on or about April 23, 2008, you accessed Inmate [redacted] record for unofficial purposes and then provided the information to Ms. [redacted] without permission.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

LARRY L. WALDIE
UNDERSHERIFF

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

LLW:RAA:KM:if

c: Advocacy Unit
Alexander R. Yim, Chief, Correctional Services Division
Gerald K. Cooper, Captain, Inmate Reception Center
Internal Affairs Bureau
Office of Independent Review (OIR)
Joseph Fennell, Captain, Personnel Administration